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1st Session

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REPORT
No. 856

ARMY PERSONNEL ACTIONS RELATING TO IRVING PERESS

REPORT

OF THE

COMMITTEE ON GOVERNMENT OPERATIONS

MADE BY ITS

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

TOGETHER WITH INDIVIDUAL VIEWS OF MR. BENDER

JULY 14, 1955.—Ordered to be printed with illustrations

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Mr. SYMINGTON, from the Committee on Government Operations, submitted the following

REPORT

MADE BY ITS PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

INTRODUCTION

On January 30, 1954, Maj. Irving Peress, a dental officer assigned to Camp Kilmer and on active duty since January 1, 1953, appeared before the Senate Permanent Subcommittee on Investigations and invoked the fifth amendment in response to certain questions, among which were: [1]

Was he then or had he ever been a member of the Communist Party?

Had he attended leadership courses at the Inwood Victory Club of the Communist Party?

Had he attempted to recruit military personnel at Camp Kilmer into the Communist Party?

Had he acted under orders from Communist Party functionaries while at Camp Kilmer?

Had Communists intervened to have his overseas orders canceled?

Had Communists assisted him in securing a promotion to major?

The fact that an Army officer invoked the constitutional privilege to questions of this nature caused the subcommittee grave concern. Questions were thereby raised, not only as to the effectiveness of the Army's program of dealing with subversives, but also whether the circumstances surrounding the original appointment of Peress, his subsequent change of orders, and his promotion had been, in fact, inspired by subversive interests. Certainly the subcommittee's con-

[1] Hearings, Communist Infiltration in the Army, pt. 3, pp. 107–118, 123–143.

cern was not lessened by the Army honorably discharging Irving Peress on February 2, 1954. This was particularly true since this action was taken in apparent disregard of a February 1 letter from Senator McCarthy, the chairman of the subcommittee, to Secretary of the Army Stevens, indicating that the subcommittee was in possession of sufficient information to warrant court-martial proceedings against Peress.[2]

Subsequent developments revealed that the Army had been in possession of unfavorable security information concerning Peress for a considerable period of time but irrespective thereof he was promoted to the grade of major and later discharged under honorable conditions.

By letter dated February 16, 1954, to Senator Joseph McCarthy, Secretary of the Army Robert T. Stevens admitted that the Peress case revealed—

> defects in the Army procedure for handling men called to duty under the provisions of the Doctors Draft Act * * *—

and that he had directed the Inspector General of the Army to initiate an "exhaustive" investigation.[3] Later, Secretary of Defense Charles E. Wilson stated that the Army had committed administrative errors in handling the Peress case.[4]

On March 4, 1954, President Dwight D. Eisenhower stated that the Department of the Army made serious errors in handling the Peress case and that the Army was correcting its procedures to avoid such mistakes in the future.[5]

Following the completion of the Inspector General's investigation, Secretary Stevens by letter of May 13, 1954, furnished the special Mundt subcommittee [5a] a list of 28 officers who took an active part in the personnel actions concerning Irving Peress.[6] The shortcomings of this list, along with apparent deficiencies of the Inspector General's investigation as later revealed are discussed in detail in the body of this report.

On January 7, 1955, almost a year after Peress' initial appearance before the subcommittee, the Department of the Army publicly released a "chronology of the military record of Dr. Irving Peress."[7] This chronology not only failed to answer many questions but raised others.

On January 14, 1955, the United States Senate resolved:

> * * * It is the sense of the Senate that its appropriate committees should continue diligently and vigorously to investigate, expose, and combat this [Communist] conspiracy and all subversive elements and persons connected therewith, including the completion of all pending and unfinished investigations of such nature.[8]

In view of the situation the subcommittee concluded that it would not be properly discharging its responsibility to either the Senate

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[2] Pt. 5, p. 423, exhibit No. 64.
[3] Pt. 6, p. 508, exhibit No. 80.
[4] Hearings, Senate Armed Services Committee, Doctor Draft Act Amendments, April 1, 1954, p. 125.
[5] New York Times, March 4, 1954, p. 12, text of President's statement on case of Maj. Irving Peress.
[5a] Subcommittee chaired by Senator Karl E. Mundt during hearings, Special Senate Investigation on Charges and Countercharges Involving Secretary of the Army Robert T. Stevens, John G. Adams, H. Struve Hensel, and Senator Joe McCarthy, Roy M. Cohn, and Francis P. Carr.
[6] Pt. 1, p. 40.
[7] Ibid., pp. 40–59.
[8] S. Res. 18, 84th Cong., 1st sess., agreed to on January 14, 1955.

NOTE.—*Explanation of footnotes:* All page references in footnotes refer to the published record of hearings of this subcommittee on Army Personnel Actions Relating to Irving Peress, March 15–31, 1955, except where otherwise noted.

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or the American people unless it thoroughly inquired into the Peress matter. The purpose of this inquiry was to develop all the true facts and circumstances attending the Department of the Army's handling of the induction, change of orders, promotion, and honorable discharge of Dr. Irving Peress.

In preparing for public hearings, the subcommittee staff conducted a 6-week preliminary investigation. Upon receiving assurances from the Army that it would furnish the subcommittee all information material to its inquiry, the staff at the outset of its preliminary investigation requested that the results of the Inspector General's investigation of Peress be made available for review. On January 24, 1955, the Inspector General's report was actually made available to members of the staff. However, prior to the conclusion of its examination, the report was withdrawn upon instructions of the General Counsel of the Department of Defense.[9] In contrast thereto the contents of an Inspector General's report relating to Pvt. G. David Schine were furnished by the Army to the special Mundt subcommittee.[10]

The hearings on the Army personnel actions relating to Irving Peress commenced March 15 and ended March 31, 1955. A total of 22 witnesses testified before the subcommittee and interrogatories were taken of 2 additional witnesses. The record is supported by a total of 91 exhibits.

Part I—The Commissioning and Call to Active Duty of Irving Peress

Dr. Irving Peress registered with his local draft board on January 15, 1951. He was commissioned as a captain in the United States Army Dental Corps October 15, 1952,[11] and entered on active duty January 1, 1953.[12] These matters are treated in detail hereinafter.

1. Appointment to captain

The career of Irving Peress in the United States Army Dental Corps had its origin in the Doctor Draft Act, which amended the Selective Service Act of 1948 to provide for the special registration, classification, and induction of certain medical, dental, and related specialists.[13] Peress, who had been practicing dentistry in the State of New York since 1940, was subject to the provisions of this act, inasmuch as he was not a member of the Reserve of any of the Armed Forces. Accordingly, he registered with Local Board No. 59, Forest Hills, Long Island, N. Y., on January 15, 1951.

Subsequent to the above registration, the initial form of importance was DD Form 390 executed by Peress on May 26, 1952, entitled "Initial Data for Classification and Commissioning in the Medical Services for Medical, Dental, and Veterinary Corps."[14] On this form under items 30 and 31, Peress applied for a commission "if I am selected for military service." Of particular significance is the fact that under item No. 32 he certified that—

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[9] Pt. 1, pp. 33–36.
[10] Hearings, Special Senate Investigation on Charges and Countercharges Involving: Secretary of the Army Robert T. Stevens, John G. Adams, H. Struve Hensel and Senator Joe McCarthy, Roy M. Cohn, and Francis P. Carr, pt. 38, p. 1395; pt. 9, p. 356; Hearings, Army Personnel Actions Relating to Irving Peress, pt. 1, pp. 37–38.
[11] Pt. 2, p. 65.
[12] Pt. 1, p. 26.
[13] Public Law 779, 81st Cong., September 9, 1950.
[14] Pt. 1, p. 15.

I am not nor have I been a conscientious objector and I am not now and have not been a member of any foreign or domestic organization, association, movements, group, or combination of persons advocating a subversive policy or seeking to alter the form of government of the United States by unconstitutional means.

Because of its importance, DD Form 390 is treated separately in another section of this report. As will shortly be seen, although Peress denied membership in subversive organizations on DD Form 390, he subsequently invoked the fifth amendment in response to similar questions on other forms executed after he had been commissioned. It is significant that DD Form 390 was never seen by those Army officials responsible for Peress' honorable discharge.

Matters relating to the initial commissioning and entry on active duty of Irving Peress revolved around Maj. Floyd E. Van Sickle, Jr., and Mr. Curtis R. Kirkland, a civilian who formerly was a major in the Army, because of their respective positions in the First Army, New York City, during that period. The duties of Major Van Sickle as Chief, Office of Procurement, Medical Section, First Army, included the processing of papers filed by applicants for commissions under the Doctor Draft Act and the taking of necessary preliminary steps which would lead to the commissioning and call to active duty of such applicants.[15] Kirkland, as Assistant Adjutant General of the Reserve Forces Division, had the responsibility, among others, of actually tendering commissions and processing certain forms filed by applicants under the Doctor Draft Act which were not processed by the Medical Section.[16]

On August 11, 1952, three copies of DD Form 390, as well as medical history and physical examination reports were received in the Medical Section of the First Army.[17] On September 25, 1952, by letter signed by Major Van Sickle, Irving Peress was advised that it was necessary for him to contact First Army in the event he desired a commission. On the same date Peress by telephone informed First Army that he desired a commission.

On October 4, 1952, Major Van Sickle, of the Medical Section, recommended to the Adjutant General, Reserve Forces, that Peress be tendered an appointment in the grade of captain in the Dental Corps of the United States Army Reserve.[18] It is observed that at this juncture DD Form 390 is the only form executed by Peress which contained any information of a loyalty or security nature.

Based upon the aforementioned recommendation of the Medical Section, Mr. Kirkland, then of the Adjutant General's Office, Reserve Forces Division, First Army, under date of October 10, 1952, forwarded to Irving Peress a letter of appointment in the grade of captain in the Officers Reserve Corp. Enclosed with this letter were other forms, including DD Forms 98, 98A, and 398. Peress was instructed to execute the oath of office and return it to headquarters, First Army, within 72 hours and to complete the remaining forms, including DD Forms 98, 98A, and 398 within 15 days.[19]

Peress executed the oath of office on October 15, 1952.[20] He accomplished D DForms 98, 98A, and 398 on October 28, 1952.[21] The latter

[15] Pt. 1, pp. 9, 12.
[16] Pt. 2, p. 64.
[17] Pt. 1, pp. 16, 41.
[18] Pt. 1, p. 16.
[19] Pt. 1, p. 41.
[20] Pt. 2, p. 65.
[21] Pt. 2, pp. 65–68.

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three forms are of particular importance to all aspects in the Peress case because through them the Army was first apprised of the fact that Peress was a possible security risk. Furthermore, the answers appearing thereon were in apparent contradiction to those on DD Form 390.

DD Form 98 is the "Loyalty Certificate for Personnel of the Armed Forces." DD Form 98A, in effect an addendum to DD Form 98, is a list of organizations declared subversive by the Attorney General. The person completing DD Form 98 is asked to certify as regards membership in or association with the organizations listed by the Attorney General as contained on 98A. In this connection, Peress claimed the "Federal constitutional privilege." He similarly claimed the "Federal constitutional privilege" in the space on DD Form 98 provided for a statement of the nature and extent of his association with and activities in connection with the listed organizations.[22]

On DD Form 398 "Statement of Personal History," a space is provided for the listing of past and/or present membership in organizations. Peress stated that he was a member of the American Dental Association, but claimed the Federal constitutional privilege as to other organizations. He similarly answered "Federal constitutional privilege is claimed" to the following three questions proposed in item No. 16 of the form:

1. Are you now or have you ever been a member of the Communist Party, U. S. A., or any Communist organization?
2. Are you now or have you ever been a member of a Fascist organization?
3. Are you now or have you ever been a member of any organization, association, movement, group, or combination of persons which advocates the overthrow of our constitutional form of Government, or of an organization, association, movement, group, or combination of persons which has adopted the policy of advocating or approving the commission of actions of force or violence to deny other persons their rights under the Constitution of the United States or of seeking to alter the form of Government of the United States by unconstitutional means?[23]

It is of interest that in the space provided on DD Form 398 for the signature of a witness, Peress signed his own name.

During October 1952, when Peress received his commission, existing regulations provided that the ordinary Reserve officer complete all loyalty forms prior to being commissioned. However, an exception to these regulations was applied to doctors, dentists, and veterinarians because of the then urgent requirements for these specialists. Accordingly, they were commissioned prior to the execution of the loyalty forms.[24] Exactly why expeditious processing of doctors, dentists, and veterinarians would be substantially affected by a requirement that they complete loyalty papers prior to being commissioned has not been explained.

2. Call to active duty

On October 28, 1952, Major Van Sickle notified the Office of the Surgeon General, Department of the Army, that Irving Peress, among others, was eligible to be called to active duty.[25] Undoubtedly, DD forms 98, 98A, and 398 had not been received by First Army

[22] Pt. 2, pp. 67–68.
[23] Pt. 2, p. 66, exhibit No. 67.
[24] Pt. 1, pp. 11–12, 42.
[25] Pt. 1, p. 17.

at this time, since Peress had not executed these forms until October 28, 1952.[26]

On November 5, 1952, The Adjutant General, Department of the Army, instructed the commanding general, First Army, to call Peress, among others, to active duty.[27] Peress reported for active duty on January 1, 1953.[28]

Officials of the Army have been unable to fix the date when First Army received the various loyalty forms on which Peress claimed the fifth amendment. However, it has been determined that DD Form 398 was in the possession of First Army on November 14, 1952, because on that date Mr. Kirkland returned this form to Peress to be properly witnessed by a person other than himself.[29] Thus the Army had approximately 7 weeks between November 14, 1952, and January 1, 1953, to take action and cancel Peress' active-duty orders. This they failed to do although in other similar cases during the same period, such action was taken despite the existence of regulations providing that a Reserve officer not be deferred from active duty irrespective of the existence of unresolved security information.[29a]

Mr. Kirkland testified that during the fall of 1952, as a result of procedures personally established by him, five separate DD forms 398 on which the constitutional privilege was invoked, none of which involved Irving Peress, were brought to his attention.[30] At this time the five officers executing these forms were scheduled to be called to active duty. After discussion with Major Van Sickle, correspondence was prepared and forwarded to G–2,[31] Department of the Army, through G–2, First Army, recommending that the active-duty orders of the five officers be canceled.[32]

Based on this recommendation the Department of the Army issued instructions that the five officers be discharged administratively, specifically ruling that these discharges would be an exception to the regulations then in effect.[33] All five officers were separated from the Army accordingly.[34]

As to why action leading to the cancellation of Peress' active-duty orders was not similarly taken by him, Mr. Kirkland testified that he was unable to locate any record of the Peress forms having been called to his personal attention nor did he have any independent recollection of the Peress papers going over his desk.[35] He testified that if the situation were otherwise, similar action would have been taken by him as to Peress.[36]

From the above it would appear that Van Sickle and Kirkland were aware that Army regulations in this field, as concerns drafted

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[26] As to the ultimate disposition of DD forms 98 and 398 by the Adjutant General Reserve Division, procedures then in effect required that all forms 398 be automatically forwarded to G–2, First Army, while forms 98 were forwarded only when they contained questionable entries (pt. 2, p. 69). In the Peress case, 398 apparently was forwarded to G–2, First Army, shortly after November 20, 1952 (pt. 2, p. 70). Form 98 was not forwarded until January 5, 1953 (pt. 2, p. 71).

[27] Pt. 1, p. 17.

[28] Pt. 1, p. 18.

[29] Pt. 2, pp. 68–69.

[29a] Par. 6c (1), special regulations 600–220–1, March 20, 1951.

[30] Pt. 2, pp. 70, 74.

[31] G–2 where used in this report denotes "intelligence."

[32] Pt. 2, pp. 74–76; pt. 1, p. 14.

[33] Pt. 3, pp. 162–164; pt. 2, p. 76; exhibit No. 26.

[34] Pt. 2, p. 151, exhibit No. 8.

[35] Pt. 2, p. 70.

[36] Pt. 2, p. 76.

medical, dental, and veterinary officers, were completely inadequate and took action transcending those regulations to remove these five officers. In this action they were supported by the Department of the Army itself.

Part II—Cancellation of Overseas Assignment

Irving Peress entered on active duty January 1, 1953. His original place of assignment was Fort Sam Houston, Tex., where he reported on January 3, 1953. Pursuant to Army orders issued shortly thereafter, Peress reported to Fort Lewis, Wash., on February 26, 1953, for further assignment to the United States Army forces, Yokohama, Japan.[37]

While at Fort Lewis, Peress requested and was granted 15 days' emergency leave commencing February 28, 1953. In support of this request he enclosed a letter dated January 24, 1953, from Dr. Max Greunthal, 25 West 81st Street, New York, N. Y., a psychiatrist; a letter dated February 17, 1953, from Dr. Edward M. Bernecker, administrator, Bellevue Medical Center, New York University, and a communication from the Red Cross.[38]

Dr. Greunthal stated in his letter that Mrs. Elaine Peress had been under his care during the fall of 1950 at which time she was suffering from a "severe anxiety neurosis" and that she had suffered a relapse in January of 1953. Dr. Bernecker stated that Jill Peress, the daughter of Irving Peress, was then currently being treated at the Bellevue Medical Center for "character behavior disorder." The Red Cross, at the request of Peress, merely forwarded the results of an interview with Dr. Greunthal and did not develop any information in addition to that contained in his letter of January 24, 1953.

On February 27, 1953, just prior to returning to his home in New York on leave, Peress directed a letter to The Adjutant General, Department of the Army, requesting cancellation of his overseas assignment.[39] He enclosed therewith the aforementioned letters of Dr. Greunthal and Dr. Bernecker and the Red Cross.

On March 9, 1953, the Peress request was presented to a board of officers in the Office of the Surgeon General which had as its function the consideration of requests for deferment, compassionate leave, and cancellation of overseas assignment.

This board consisted of Brig. Gen. Egbert W. Cowan, Col. O. Elliott Ursin, and Maj. William O. Prettyman, Jr., the latter also acting as recorder to the board.[40] These officers were unanimous in their recommendation of approval of the request with the result that shortly afterward Peress' overseas assignment was canceled.[41] He was reassigned to Camp Kilmer by Department of the Army orders dated March 13, 1953.[42]

The above board did not convene as a group. Requests of this nature were considered individually by each board officer and approval or disapproval was indicated by initialing a cover sheet.[43]

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[37] Pt. 1, p. 43.
[38] Pt. 2, pp. 88–89, 152, exhibit No. 11; p. 153, exhibit Nos. 12 and 13.
[39] Pt. 2, p. 152, exhibit No. 10.
[40] Pt. 2, p. 87.
[41] Pt. 2, pp. 87, 151–152, exhibit No. 9.
[42] Pt. 1, p. 44.
[43] Pt. 2, p. 87.

In connection with this matter the subcommittee heard the testimony of Maj. William O. Prettyman, Jr., recorder and voting member of the board. Although he had no specific recollection of the board considering the Peress case, there was no evidence available indicating that the Peress request was handled in other than a routine fashion and that material ordinarily considered by the board was not actually considered in this instance. He did state that the following material was normally made available to the board in cases of this type: the letter of the requesting officer along with supporting data submitted by him, the professional qualifications file and the status card on which was recorded in brief fashion, assignments and pertinent actions taken as to the requesting officer.[44]

It was Major Prettyman's testimony that if he were currently presented with the Peress request and had before him the supporting data along with the status card, he would again recommend approval of the request.[45] He testified that normally credence was given to physicians' statements submitted to substantiate compassionate requests and a great deal of weight was placed by him on investigations conducted by the Red Cross.[46]

On the status card relating to Irving Peress maintained in the Office of the Surgeon General there appeared an entry reading "not to be reassigned without consulting SG 201 file (confidential)."[47] This entry related to the initiation of the Peress investigation by G–2, First Army, on February 5, 1953. This notation was entered on the status card between March 2 and 4, 1953. Thus if the status card were made available to the board this entry would have been seen by the members thereof when they considered the Peress request on March 9, 1953.

Major Prettyman testified that if the card were considered and if he were aware of the fact that the entry related to the existence of derogatory security information it would not have altered his recommendation. In fact, such information would have been an additional reason for detaining Peress in the United States in accordance with his understanding of Army policies in existence at the time regarding overseas assignments of subversives.[48]

Part III—The Appointment of Peress to Major

The elevation of Irving Peress from captain to the grade of major had as its basis Department of Defense Directive 1205.1 dated October 7, 1953, implementing Public Law 84, 83d Congress, June 29, 1953, which amended the so-called Doctor Draft Act, Public Law 779, 81st Congress, September 9, 1950. The pertinent provision of Public Law 84 which was so implemented is section 3, which amends section 4 of Public Law 779, 81st Congress, to read as follows:

> Sec. 4. (a) Notwithstanding subsection 217 (c) of the Armed Forces Reserve Act of 1952 (66 Stat. 481) or any other provision of law, any person liable for induction under the Act of September 9, 1950, as amended, or any member of a Reserve component who has been or shall be ordered to active duty on or before July 1, 1955, as a physician, dentist, or in an allied specialist category in the Armed Forces (including the Public Health Service) of the United States shall,

[44] Pt. 2, pp. 87, 89.
[45] Pt. 2, pp. 91, 93.
[46] Pt. 2, pp. 92, 89–90.
[47] Pt. 2, p. 90.
[48] Pt. 2, pp. 93–94.

under regulations prescribed by the President, be appointed, reappointed, or promoted to such grade or rank as may be commensurate with his professional education, experience, or ability.

Concerning the Peress appointment to major, there were two series of personnel actions, each having separate bases, which are portrayed in the chart appending this report.[49] As will be observed, the first series of actions were predicated upon the September 9, 1953, letter of Peress requesting grade determination.[50] The second series are related to the group adjustment by the Department of the Army of officers eligible under the provisions of the above-quoted section of Public Law 84.[51] Peress' elevation to the grade of major was the result of the latter series of actions and independent of his letter request of September 9.

1. Peress request for appointment to major

Col. Ruluff Leverich, dental surgeon, Camp Kilmer, who was Peress' immediate superior, testified that in late August or early September of 1953 he had received numerous inquiries from the dental officers under his supervision, including Capt. Irving Peress, as to whether it would be necessary for them to take any individual action in connection with the readjustment provisions of Public Law 84. They were advised that such action was unnecessary inasmuch as appropriate screening would be made at the Office of the Surgeon General, Department of the Army, with the view to determining all officers eligible for readjustment under these provisions of the act.[52] Despite this advice, Peress insisted upon and, in fact, did prepare a letter to be forwarded through channels, to The Adjutant General, Department of the Army, under date of September 9, 1953, requesting that a determination be made as to his eligibility for appointment to major under the provisions of Public Law 84.[53]

At this time Colonel Leverich was aware of the fact that Peress was suspected of being a subversive and was under investigation by G–2, First Army, having been so advised in June 1953 by Lt. Col. Chester T. Brown, G–2, Camp Kilmer.[54]

On September 9, 1953, Colonel Leverich, after consultation with Lieutenant Colonel Brown, forwarded, without recommendation, the original of the Peress letter to the Adjutant General's Section, Camp Kilmer, "for necessary action." [55] He also furnished a carbon copy of the Peress letter to Lieutenant Colonel Brown on the same date.[56] The latter copy was forwarded by Lieutenant Colonel Brown to the Adjutant General's Section at Camp Kilmer on September 9, with the comment that Peress was "suspected of disaffection and membership in subversive organizations" and recommended that the application for promotion be disapproved.[57] This copy with Lieutenant Colonel Brown's comment, was forwarded to G–1,[58] Camp Kilmer, on September 9 with the notation "original letter, now being processed by mili-

[49] Appendix 1.
[50] Appendix 1, shaded blocks.
[51] Appendix 1, black blocks.
[52] Pt. 3, pp. 243–244.
[53] Pt. 3, p. 244; pt. 1, p. 59, exhibit 2.
[54] Pt. 3, p. 186; p. 242.
[55] Pt. 3, p. 244.
[56] Pt. 3, p. 244.
[57] Pt. 3, pp. 189–190.
[58] G–1 is that section of the Army responsible for policy as to personnel matters.

tary personnel, will be forwarded to your office for decision." [59] On the same date it was returned to the Adjutant General's Section by G–1 with the comment, "Incl. is not a recommendation for promotion, merely a request for grade determination." This comment was initialed "W. L. V.," assistant G–1, who has been identified as Capt. William L. Vinette.[60] Captain Vinette has no specific recollection of the Peress letter of September 9, nor of the preparation of his comment thereon.[61]

Thereupon, on September 10, 1953, the Adjutant General's Section, Camp Kilmer, forwarded the original Peress letter to the commanding general, First Army, "for determination." [62] However Lieutenant Colonel Brown's observations concerning Peress' disaffection and membership in subversive organizations were not forwarded by the Adjutant General's Section to First Army with the original Peress letter.

The First Army, in turn, forwarded the letter to the Adjutant General, Department of the Army, by an endorsement dated September 23, 1953, prepared by Major Van Sickle and Major Kirkland recommending that action be initiated to reappoint Captain Peress in the grade of major.[63] It was explained that his original appointment in the grade of captain was in error inasmuch as he had the minimum professional experience prescribed for the grade of major.

It should be pointed out that by memorandum dated February 5, 1953, G–2, First Army, advised Van Sickle, Medical Section, First Army, and Kirkland, Reserve Division, First Army, that a complaint type investigation had been initiated on Irving Peress because he had claimed the Federal constitutional privilege on his loyalty forms.[64]

Kirkland testified that he recalled participating with Major Van Sickle in the preparation of the endorsement to the Peress request recommending favorable action thereon.[65] He did not recall being aware at the time that Peress was the subject of an investigation by G–2, First Army.[66]

Although Major Van Sickle did not remember participating in the preparation of the aforementioned endorsement, he stated that since the upper left-hand corner of the endorsement bore the office symbols of his section, either part or all of it must have been prepared in the Medical Section.[67]

There was maintained in the Medical Section, First Army, a status card relating to Capt. Irving Peress upon which there appeared the following notation entered February 8, 1953: "CMP.2 to AGRF advising Captain Peress ordered to A/D Jan. class, Ft. Sam (Conf. File)." [68] This entry related to the notification from G–2, First Army, that an investigation had been initiated on Capt. Irving Peress.

Major Van Sickle testified that in an ordinary case he would have reviewed the status card and that the notation "confidential file" should have suggested a review of the confidential file prior to taking

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[59] Pt. 3, p. 191.
[60] Pt. 3, p. 191.
[61] Pt. 3, pp. 266–267, exhibit 46.
[62] Pt. 1, p. 60, exhibit No. 2.
[63] Pt. 1, p. 19; pt. 2, pp. 78–79.
[64] Pt. 2, p. 154, exhibit 17.
[65] Pt. 2, pp. 78–79.
[66] Pt. 2, p. 78.
[67] Pt. 1, p. 19.
[68] Pt. 1, p. 20.

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any endorsement action. It was his testimony that he simply missed this entry on the card which had been handwritten in pencil or ink. Otherwise he would have prepared a different endorsement.[69]

No further action was taken by the Department of the Army on the Peress letter requesting grade determination in view of the group readjustment then in progress which will be discussed hereinafter.

2. Events actually leading to the Peress appointment

The series of actions as a result of which Peress was actually readjusted to the grade of major were based on the Department of Defense directives implementing section 3 of Public Law 84, 83d Congress, quoted above.

On May 23, 1953, the Department of Defense established an ad hoc committee which had as its function the revision and consolidation of departmental policies and procedures under the Doctor Draft Act.[70] The Board was composed of two officers from each of the services. In carrying out its functions it became necessary for the committee to consider Public Law 84, including section 3 thereof.

On August 6, 1953, a draft of a proposed directive, which was transmitted to the Department of Defense by the ad hoc committee contained the following provision in implementation of section 3, Public Law 84, relating to readjustment in grade of officers *serving on active duty* [emphasis supplied].

> Any physician, dentist, or veterinarian now serving on active duty, whether with or without his consent, who would have been entitled to a higher grade than that in which he is now serving if the applicable provisions of this directive or of Public Law 84, 83d Congress, had been in effect at the time of his current appointment will, at the earliest practicable date, be reappointed or promoted to such higher grade *if a board of officers convened by the military department concerned so recommends.*[71] [Emphasis supplied.]

Maj. Vernon McKenzie, who throughout 1953 was Assistant Chief, Special Projects Branch, Personnel Division, Office of the Surgeon General, and who was one of the Army representatives on the aforementioned ad hoc committee, testified that members of the committee, after consultation with appropriate legal officers, reached the conclusion that the provisions of section 3, Public Law 84, specifically the phrase, "under regulations prescribed by the President," were broad enough to justify including in the directive the requirement of a Board of Officers to recommend the appointment or promotion to a higher grade.[72]

The proposed directive of the Ad Hoc Committee was referred to the three services, all of which concurred in the provision requiring a board of officers.[73]

The final Department of Defense directive implementing the Doctor Draft Act, as amended, was issued October 7, 1953, and designated 1205.1. However, there was deleted from the proposed directive the above-italicized requirement of a board of officers, as it was felt that the requirement of such a board was contrary to congressional intent and therefore illegal.[74]

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[69] Pt. 1, pp. 21–22.
[70] Pt. 3, p. 201.
[71] Pt. 3, pp. 203–204, exhibit No. 34.
[72] Pt. 3, p. 204.
[73] Pt. 3, pp. 204–205.
[74] Pt. 3, pp. 226–228, exhibit No. 35.

On October 8, 1953, the day following the issuance of the Department of Defense directive, Major McKenzie issued orders that officer records in the Office of the Surgeon General be reviewed to determine who might be eligible for readjustment under the directive. Whether or not an officer was so eligible was determined by an examination of files relating to professional qualifications only. Those files which might contain unfavorable information, security or otherwise, were not considered. This procedure was adopted as the result of the interpretation given to DOD [75] Directive 1205.1, by McKenzie as well as by his superiors in the Office of the Surgeon General. It was felt that the deletion of the requirement of a board of officers, plus the absence of any requirement such as "if otherwise qualified," had the effect of making promotions mandatory if the officer were qualified professionally even though there might be other substantial derogatory information.[76]

Under this procedure the Office of the Surgeon General prepared an initial list of some 700 medical, dental, and veterinary officers who were professionally qualified for appointment to a higher grade. On October 14, 1953, the Office of the Surgeon General transmitted the list to the Adjutant General recommending that letters of appointment be issued to each officer. Included thereon was the name of Capt. Irving Peress as being eligible for appointment in the grade of major.[77]

The Office of the Surgeon General had for some months prior to this time information in its files to the effect that G–2, First Army, had, following a security investigation, recommended Peress' elimination from the Army.[78] However, since only professional qualifications were considered in making the above list, security files were not consulted.[79]

Although the readjustment provisions of Department of Defense Directive 1205.1 were interpreted as being mandatory, the Office of the Surgeon General deviated from this interpretation in processing 12 medical officers professionally qualified for readjustment but concerning whom there existed derogatory information.[80] Peress was not included among this group.[81]

The unfavorable information concerning these 12 officers came to the attention of Major McKenzie informally rather than through an established procedure or file review.

On October 26, 1953, while in the process of making up a second roster of officers professionally eligible for readjustment, Major McKenzie discussed the situation of the 12 officers with Lt. Col. Emery E. Hyde, then Chief, Management Branch, Reserve Components Division, G–1, who ruled that their readjustments be held in abeyance despite the mandatory provisions of 1205.1[82]

On January 4, 1954, Major McKenzie again took up the matter of these 12 officers with Lieutenant Colonel Hyde at which time the latter directed that the Office of the Surgeon General process these

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[75] Department of Defense.
[76] Pt. 3, pp. 205, 206.
[77] Pt. 3, pp. 210, 211.
[78] Pt. 2, p. 139, exhibit No. 22.
[79] Pt. 3, pp. 210, 218.
[80] Pt. 3 p. 212.
[81] Pt. 3, p. 216.
[82] Pt. 3, p. 212.

officers for promotions.[83] It was Colonel Hyde's testimony that his decision rested on the assumption that any questionable information concerning these officers would by that time have been resolved.[84] This was pure assumption on Colonel Hyde's part. He was entirely uninformed as to the nature of the derogatory information concerning these officers. Furthermore, he had no knowledge and, in fact, sought none, as to what steps might have been taken in the interim to resolve such information.[85] As it later developed, Colonel Hyde's assumption was, in fact, erroneous.

On October 23, 1953 a letter of appointment in the grade of major was issued to Peress by the Adjutant General and forwarded to First Army, along with his blank oath of office, for transmittal to Camp Kilmer.[86] In transmitting this material to Camp Kilmer "for necessary action" on October 29, 1953, the First Army set a suspense or deadline date of December 14, 1953, the latest date on which the oath was to be administered.[87]

The Peress letter of appointment was received at the Camp Kilmer message center at 2:15 p. m., Friday, October 30, 1953.[88]

Col. Ruluff Leverich, Peress' superior at Camp Kilmer, testified that at approximately 8:30 a. m. on November 2, 1953, the Peress letter of appointment along with three others arrived on the desk of his assistant, Colonel Caldwell.[89] Aware that Peress was under investigation, Colonel Leverich immediately informed Lieutenant Colonel Brown, G–2, of the impending promotion.[90] Lieutenant Colonel Brown indicated that inasmuch as the Department of the Army was aware of the derogatory information concerning Peress there was nothing he could do.[91] It is observed that at this time Lieutenant Colonel Brown was aware that an investigation of Peress by G–2, First Army, had been completed and that, based thereon, a recommendation that he be separated from the Army had been made as early as April 28, 1953. Furthermore, Lieutenant Colonel Brown himself had already recommended Peress' elimination on two separate occasions.

Thereafter, Peress, along with the other officers, was directed to the Personnel Division to be sworn in.

Between 3 and 4 p. m. on November 2, 1953, Maj. Herbert F. Bourdeau, Chief, Personnel Division, United States Army hospital, Camp Kilmer, administered the oath of office to Peress and two other officers in a group.[92] Bourdeau testified that at this time he was not aware of any security information concerning Peress and, in accordance with normal procedures, examined no files prior to administering the oath.[93]

It is noteworthy that on November 2, 1953, Lieutenant Colonel Brown was fully cognizant of the feelings of Brig. Gen. Ralph W. Zwicker, commanding general, Camp Kilmer, and the recommendation he made for Peress' separation on October 21 which will be discussed more fully later in this report. The fact that the Peress pro-

[83] Pt. 3, p. 221.
[84] Pt. 7, p. 535.
[85] Pt. 7, p. 535.
[86] Pt. 3, pp. 216–217.
[87] Pt. 3, p. 255.
[88] Pt. 3, p. 253.
[89] Pt. 3, p. 245.
[90] Pt. 3, p. 246.
[91] Pt. 3, p. 191.
[92] Pt. 3, p. 253.
[93] Pt. 3, pp. 255–256.

motion emanated from the office of the Adjutant General in Washington on October 23 should have indicated that General Zwicker's recommendation of October 21 had not arrived in Washington by this date. Furthermore, the deadline set by First Army for administering the oath was December 14, 1953. Despite these readily available facts Lieutenant Colonel Brown failed to take action looking toward holding up the administering of the oath until such time as he could acquaint his commanding officer with the fact that the promotion had arrived at Camp Kilmer.

On the afternoon of November 2, 1953, Lieutenant Colonel Brown informed Col. Wendell G. Johnson, G–2, First Army that Peress had been promoted to major. He similarly advised Col. Clarence O. Brunner, who was Chief of Staff to General Zwicker. Lieutenant Colonel Brown was unable to recall which time of day on November 2 when he so advised Colonel Brunner.[94]

Although General Zwicker admittedly had the authority to delay the administering of the oath to Peress, he was unable to recall whether he was aware of the Peress readjustment prior to or after the oath was actually administered.[95] However, on November 3, 1953 he not only personally voiced his objection to First Army Commanding General Burress, but also, on the same day, dispatched a letter to General Burress protesting such promotion.[96]

It is observed that, although the Peress letter of appointment was issued on October 23, 1953, he did not execute his oath of office until November 2, 1953. As a result of their meeting on October 26, 1953, Lieutenant Colonel Hyde and Major McKenzie were on notice of the likely consequences of the procedures which were initially followed in implementing Public Law 84. There was opportunity for appropriate steps to be taken to temporarily hold up all readjustments including that of Peress until additional file reviews were made. This was not done.

As a result of a telephone call received by the Office of the Surgeon General from Col. Donald H. Smith, First Army, on November 3, 1953, protesting the Peress reappointment, the Office of the Surgeon General first became aware of the fact that Irving Peress, an officer who was the subject of a security investigation, was promoted through the procedures used in preparing the initial list.[97] Following this call, the Office of the Surgeon General requested of G–2, Department of the Army, the names of all Medical, Dental, and Veterinary Corps officers who were considered to be security risks. Major McKenzie recalled receiving a memorandum dated November 6, 1953, from G–2 containing the information requested.[98] If this information had been requested earlier, the Peress promotion might never have materialized.

Part IV—The Honorable Discharge of Maj. Irving Peress

There will be traced in this section of the report those Army personnel actions which ultimately led to the honorable discharge of Maj. Irving Peress. In this connection two important questions are

[94] Pt. 3, p. 192.
[95] Pt. 5, pp. 387–388.
[96] Pt. 5, p. 424, exhibit No. 66.
[97] Pt. 3, pp. 214, 260, exhibit No. 40.
[98] Pt. 3, pp. 220, 221.

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raised: (1) Why after the Army was in possession of a considerable amount of derogatory security information for many months was Peress honorably discharged? (2) Why was Peress' separation from the Army not effected until some 14 months subsequent to the time he had claimed the fifth amendment on certain Army loyalty forms? [99]

As previously indicated Peress executed Loyalty Forms 98 and 398 whereon he invoked the fifth amendment as to certain questions on October 28, 1952. Form 398 was received in the Reserve Division of First Army at least by November 14, 1952. Thus, at this point, the Army was on notice of the possibility of Peress being a security risk.

After DD form 398 properly witnessed was received back from Peress on November 20, 1952, it was forwarded by the Reserve Division to the Training Branch, Intelligence Division, G–2, First Army, 1 or 2 days later.[100] Nevertheless an investigation of Peress was not commenced until February 5, 1953.[101]

On December 1, 1952, Maj. Willard B. Stambaugh, Chief of the Training Branch, returned the form 398 to the Reserve Division with a request that three additional copies plus a fingerprint card be obtained from Peress, as they were required for investigative purposes.[102] At this point, although Major Stambaugh was aware that Peress had invoked the Federal constitutional privilege, no steps were taken by him to prevent his being called to active duty. Of further interest is the fact that at this time G–2, First Army, lost complete control of the case by its failure to retain a photostatic copy of form 398, which had been returned to the Reserve Division.

The requested additional copies of 398 plus the fingerprint card were received back by the Training Division on January 5, 1953, which significantly was 4 days after Peress had entered on active duty. On January 5, because of the answers appearing thereon, the forms were forwarded to the Security Branch of the Counter-Intelligence Division, which was in accordance with normal procedures.[103] Thus the technical requirement that G–2 have in its possession 3 copies of form 398 contributed to a 1-month delay in the handling of the Peress matter.

There followed another delay of 1 month, that is, until February 5, 1953, before an active investigation was finally initiated upon instructions of the Chief of the Counter-Intelligence Division, Lt. Col. Ronald F. Thomas. Lieutenant Colonel Thomas explained this delay as flowing from routine file checks ordinarily conducted by G–2 to determine if an investigation had been or was being conducted.[104]

On February 5, 1953, G–2 notified Captain Van Sickle, of the medical section, and Captain Kirkland, of the Reserve Division, First Army, that an investigation of Peress had been initiated.[105] On the same date G–2, Fourth Army, was similarly notified, since information then in possession of G–2, First Army, revealed Peress' place of assignment to be Fort Sam Houston, Tex.[106] It is of interest that this

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[99] Chart, appendix 2, illustrating Army action leading to Peress' honorable discharge and delays relating thereto.
[100] Pt. 2, p. 70.
[101] Pt. 2, p. 113.
[102] Pt. 2, p. 153, exhibit No. 15; p. 97.
[103] Pt. 2, p. 153, exhibit No. 15; p. 99.
[104] Pt. 2, pp. 111–113.
[105] Pt. 2, p. 154, exhibit No. 17.
[106] Pt. 2, p. 113.

notification never reached Peress' actual place of assignment until May 14, 1953, when G–2, First Army, instructed G–2, Camp Kilmer, to place Peress on the monthly roster of suspects. It was not until just prior to May 14, 1953, that G–2, First Army, was in receipt of accurate information as to his whereabouts. As a matter of fact, Peress was within the jurisdiction of First Army for almost a month without the knowledge of G–2, First Army.[107]

On February 12, 1953, G–2, First Army, notified G–2, Office of the Adjutant General and Office of the Surgeon General, all Department of the Army, that an investigation had been initiated.[108] This notice should have served to flag the Adjutant General against transferring Peress, as provided by existing security regulations. Nevertheless, as is known, the Adjutant General actually ordered Peress' reassignment from Fort Lewis, Wash., to Camp Kilmer, N. J., 1 month later.

On April 21, 1953, the investigation of Peress had been completed and a report prepared. Three copies of this report by letter dated April 28, 1953, were forwarded by G–2, First Army, to G–2, Sixth Army, where G–2, First Army, thought Peress was stationed. The reports were forwarded via the Office of the Surgeon General and G–2 in Washington, D. C., as was normal procedure. The letter recommended that action be initiated to effect Peress' removal from the service under existing security regulations because the investigation disclosed sufficient evidence for the belief that subject was disloyal and had subversive tendencies.[109]

When this letter and the enclosed reports passed through the Office of the Surgeon General in Washington en route to G–2, Washington, and thence to the Sixth Army, the Surgeon General recommended that action be initiated to effect Peress' elimination from the service. At the same time that office advised G–2, Washington, that Peress had been reassigned to Camp Kilmer, N. J., on March 19, 1953.[110]

On May 2, 1953, the letter of April 28, 1953, together with the reports and the Surgeon General's recommendation arrived at G–2 headquarters in Washington, D. C.[111]

Some 3 weeks later, on May 21, 1953, G–2 in Washington returned all of the material to G–2, First Army, because Peress was stationed at Camp Kilmer and the Intelligence Division at Camp Kilmer had not seen the reports nor made any recommendations as required by

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[107] The following transpired during the course of attempts by G–2, First Army, to locate Peress between February 5, 1953, and May 14, 1953:

On February 26, 1953, Fourth Army returned the February 5, 1953 notification of investigation to G–2, First Army, because Brooke Army Medical Center, Fort Sam Houston, Tex., had advised G–2, Fourth Army, that Peress never reported to that command. This was in error because Peress actually reported at the Brooke Army Medical Center on January 3, 1953. Also, on February 26, 1953, Peress reported for duty at Fort Lewis, Wash., pursuant to transfer orders dated January 26, 1953.

G–2, First Army, in a further attempt to locate Peress, received information from the Surgeon General's Office that Peress had been transferred from Fort Sam Houston to Camp Stoneman, Calif. Accordingly, on March 9, 1953, G–2, First Army, so advised G–2 Headquarters in Washington, D. C. This information was incorrect since Peress had actually been reassigned to Fort Lewis, Wash. G–2 Headquarters in Washington, without contacting the Office of the Surgeon General or any other source, in order to ascertain where in fact Peress was stationed, forwarded the letter of G–2, First Army, to G–2, Sixth Army, San Francisco, for appropriate action on March 24, 1953. Sixth Army, after conducting necessary inquiry ascertained that Peress had been transferred to Camp Kilmer, N. J., under orders dated March 24, and so advised G–2, First Army, by message dated May 5, 1953. Finally, on May 14, 1953, the original February 5, 1953, letter from G–2, First Army, was forwarded to G–2, Camp Kilmer, requesting that Peress be reported as under investigation on the monthly roster of suspects (exhibit No. 21).

[108] Pt. 2, p. 114.

[109] Pt. 2, p. 115, exhibit No. 24.

[110] Pt. 1, exhibit No. 88.

[111] Pt. 2, p. 141.

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then existing regulations. At this time G–2, Washington, made no evaluation or decision as to what action, if any, should be taken concerning Peress.[112]

At this time Lt. Col. James D. Anders was in charge of the Disposition Section of G–2 in Washington and, by virtue of his position, had the responsibility of recommending elimination of persons from the service. Lieutenant Colonel Anders was assigned to the Disposition Section on February 6, 1952. Prior to this assignment he had no Intelligence experience of any consequence. It was Lieutenant Colonel Anders' testimony that even though an investigative report contained sufficient derogatory information to warrant G–2, Washington, recommending separation without referral to the commander in the field, existing regulations required that the Peress material be forwarded through channels to Camp Kilmer. The Peress case was handled in Washington in a routine fashion and, according to Lieutenant Colonel Anders, the 3-week delay in returning it to Camp Kilmer was the result of the Disposition Section operating on a 30-day backlog.[113]

On June 15, 1953, G–2 at Camp Kilmer, after reviewing the letter and reports, returned them to G–2, First Army, with the recommendation that Peress be separated from the service.[114] Once again under date of July 7, 1953, G–2, First Army, forwarded the Peress file to G–2 Headquarters, Washington, D. C., via the Office of the Surgeon General in Washington. At this time G–2, First Army, reiterated its original posiiton, namely that Peress' retention in the service was not consistent with the interests of national security because the investigation provided sufficient evidence to find that he had subversive tendencies.[115] Thus, the requirement that all matters of this nature be referred to the commander in the field resulted in the delay in this instance from May 21 to July 16, 1953, on which date the Peress file arrived back at G–2, Washington.

Some 3½ weeks later, on August 10, 1953, G–2 in Washington forwarded via Intelligence channels an interrogatory to be completed by Peress at Camp Kilmer, N. J.[116] Thus a period of 3½ months had elapsed since the security investigation of Peress had been completed, during which interim period G–2 in First Army had made two recommendations for Peress' separation from the service, the Office of the Surgeon General had made a similar recommendation, and the Intelligence officer at Camp Kilmer likewise made such a recommendation.

In spite of the available information plus the aforementioned recommendations, no action was initiated to remove Peress from the service as of August 10, 1953. Instead, on that date, G–2, Washington, forwarded an interrogatory to Camp Kilmer for completion by Peress, which action was not mandatory under existing regulations.[117] Lieutenant Colonel Anders testified, however, that as a matter of practice the use of an interrogatory was considered mandatory. This resulted in a further 1-month delay in the final disposition of the case.

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[112] Pt. 2, p. 141.
[113] Pt. 2, pp. 141, 142.
[114] Pt. 3, p. 185.
[115] Pt. 2, p. 142, exhibit No. 24.
[116] Pt. 2, p. 142. (An interrogatory is not a standard form. It is especially prepared in each case where utilized. Questions posed to Peress on the interrogatory were predicated on the G–2 investigation.)
[117] Pt. 2, pp. 142, 143.

The interrogatory was completed by Peress at Camp Kilmer on August 25, 1953, at which time he invoked the fifth amendment in answering all questions pertaining to membership and activity in various subversive organizations.[118] This was forwarded by G–2, Camp Kilmer, to G–2, Washington, on August 26, via G–2, First Army, and the Office of the Surgeon General, Washington, D. C. G–2, Camp Kilmer, again recommended consideration be given separating Peress from the service, and again First Army and the Surgeon General's Office concurred in this recommendation.[119]

On September 10, 1953, the completed interrogatory arrived at G–2 headquarters, Washington, D. C.[120] As of that date, a total of seven separate recommendations for Peress' separation from the service had been made:

By G–2, First Army on—
April 28
July 7
September 2
By G–2, Camp Kilmer, N. J., on—
June 19
August 26
By the Office of the Surgeon General, Washington, D. C., on—
April 30
September 8.

Despite the four recommendations that were made prior to the preparation of the interrogatory there was no flagging procedure established whereby the Peress case might be handled expeditiously when the completed interrogatory arrived in Wasihngton, D. C.[121] In fact, not only was there a complete lack of procedure to handle properly this case at this time, but from September 10 until October 27, 1953, a period of some 47 days, no action of any description was taken by G–2 in Washington, D. C., in connection with the Peress case.[122] In an attempted explanation of this 47-day delay, Lieutenant Colonel Anders, the Chief of the Disposition Section, G–2, Washington, testified that during this period of time from late September and throughout October unusual and pressing work demands caused a 60-day backlog in his section, even though his 7 officers worked a total of 160 hours overtime. Because of this backlog he requested additional personnel but without success.[123]

On October 29, 1953, the Peress file was referred to the Summary Unit of G–2. The informational summary was completed on November 6, 1953.[124] At this time a period in excess of 6 months had passed from the initial recommendation by G–2, First Army, for Peress' separation from the service, and still there was no record of any action by G–2 in Washington, D. C., recommending Peress' elimination. In the meantime, Peress had been appointed a major on November 2, 1953. As a matter of fact, G–2, Washington, did not recommend Peress' separation until November 18, 1953, on which date a special summary was furnished the Personnel Division at the latter's re-

[118] Pt. 2. p. 145; exhibit No. 23.
[119] Exhibit No. 24.
[120] Pt. 2. p. 146.
[121] Pt. 2. p. 146.
[122] Pt. 2, p. 146.
[123] Pt. 2, pp. 146–149.
[124] Pt. 2, p. 150.

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quest.[125] The request for this summary by the Personnel Division made of G–2 on November 13, 1953, was predicated on a personal letter from Lt. Gen. W. A. Burress, commanding general, First Army, to Vice Chief of Staff Charles Bolte at the Pentagon, wherein General Burress expressed concern over Peress' recent promotion and urged that he be separated from the Army.[126]

1. Action taken by G–2, Camp Kilmer, N. J., and related matters

As is known, on May 14, 1953, G–2, First Army, forwarded to G–2, Camp Kilmer, the letter of February 5, 1953, reflecting that an investigation on Peress had been initiated. Upon receipt of this notification, Lt. Col. Samuel E. Gordon (retired), who was the intelligence officer at Camp Kilmer, placed Peress' name on the Camp Kilmer suspect list in accordance with the First Army instructions. He took no other action because he felt his responsibilities did not require anything additional.[127] Prior to assuming his duties as G–2 at Camp Kilmer, Lieutenant Colonel Gordon had received no training along intelligence lines nor had he had previous intelligence experience. His guide for action in intelligence matters was a manual to which he would refer. The limited action taken by him in the Peress case was in accord with his interpretation of the manual regulations. Hence he initiated no active investigation and did not notify his commanding officer.[128] Colonel Gordon had no recollection of receiving the completed investigative report on Peress, which was forwarded to First Army on May 25, 1953, although this was the only security case on an officer at Camp Kilmer.

Lt. Col. Chester T. Brown replaced Lieutenant Colonel Gordon as G–2 on June 11, 1953, and within 48 hours Lieutenant Colonel Brown reviewed the Peress file, and on June 15, 1953, submitted his recommendation to G–2, First Army, that Peress be removed from the service.[129] He discussed the case with Col. Ruluff Leverich, the dental surgeon, requesting that Peress be denied access to classified material and suggesting that Leverich "keep an eye on him" while on the post.[130] It was Colonel Leverich's testimony that he actually effected no more than a casual spot check consisting of attempts to overhear conversations engaged in by Peress whenever an opportunity to do so discreetly was presented.[131]

Lieutenant Colonel Brown took no other action. He did not at this time notify his commanding general.[132] Thus we find the officer in charge of intelligence at Camp Kilmer where Peress was actively stationed, initiating the aforementioned extremely limited action even though he was fully cognizant of all of the unfavorable information to the extent that he recommended Peress be removed from the service. It was his testimony that it was not within his responsibility to conduct investigations, as his duties were administrative in nature.[133]

It was not until October 21, 1953, that Lieutenant Colonel Brown acquainted his commanding officer, General Zwicker, with the Peress

[125] Pt. 3, p. 160.
[126] Pt. 4, pp. 338, 348, exhibit No. 54; pt. 3, p. 160.
[127] Pt. 3, pp. 171, 175.
[128] Pt. 3, p. 175.
[129] Pt. 3, p. 185.
[130] Pt. 3, pp. 185, 186.
[131] Pt. 3, p. 243.
[132] Pt. 3, p. 193.
[133] Pt. 3, p. 188.

case, and this action was taken only after the Chief of Staff, at General Zwicker's request, had asked Lieutenant Colonel Brown if there were any security cases on officers in the command. At no time prior thereto had Lieutenant Colonel Brown conferred with his commanding officer and mentioned or discussed the Peress or any other security case existing at the post.[134] Brown testified that an added reason for advising his commanding general on October 21, 1953, was that he felt some positive action should have been taken by that date toward the elimination of Peress from the service. Brown's justification in failing to notify his commanding officer prior to this date was based on his interpretation of Army regulations which provided that intelligence reports remain in intelligence channels until a specific command is required to take action.[135] Apparently he was not concerned with, or was unaware of, the "staff field manual," which provides that the staff present to the commander information he requires to keep abreast of the current situation and form the basis for further decisions.[136]

Brig. Gen. Ralph W. Zwicker became commanding general at Camp Kilmer, N. J., on July 15, 1953. He did not ask for a briefing by his G–2 officer until October 21, 1953. Thus, for a period in excess of 3 months he directed his command with no knowledge of the security cases therein. In explaining this 3-month delay, General Zwicker testified it was necessary for him to acquaint himself with his duties and his post through visits to various stations and briefing by staff officers according to a pattern, and it was not until early October that he felt he should be briefed by his G–2 officer. It was his further testimony that no Army regulation required him to assure himself that he be kept advised of security matters under his command.

When General Zwicker learned of the details of the Peress case on October 21, he immediately dispatched a letter (drafted by Lieutenant Colonel Brown) to his superior, the commanding general, First Army, recommending that "immediate steps be taken to effect Peress' release from active duty," pointing out that recommendations for Peress' elimination had already been made by G–2, First Army, and the Office of the Surgeon General.[137]

As previously pointed out, on November 3, 1953, General Zwicker protested to General Burress, commanding general, First Army, the Peress promotion of November 2, 1953. As a result of this protest, General Burress wrote his personal letter of November 6, 1953, to Vice Chief of Staff Bolte, which expedited Army action ultimately ending in Peress' discharge from the Army. If, therefore, General Zwicker had become cognizant of the Peress case within a reasonable time after he assumed command, the distinct possibility exists that the Peress promotion would not have materialized, and his separation from the Army would have been effected more expeditiously.

The investigation of Peress conducted by G–2, First Army, between February 5 and April 15, 1953, necessarily related to his activities prior to the time he entered on active duty because during this period G–2, First Army, was unaware of his place of assignment. It was of particular significance that at no time between January 1, 1953, and February 2, 1954, while Peress was on active duty, was any

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[134] Pt. 3, p. 193.
[135] Pt. 3, p. 193; p. 259, exhibit No. 31.
[136] Pt. 3, pp. 164, 165.
[137] Pt. 3, p. 260, exhibit No. 33; p. 196.

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investigation or surveillance conducted to determine his activities while in the Army, with the exception of the above-mentioned spot check at Camp Kilmer. This was in disregard of the fact that the G–2 investigation of Peress which had been completed on April 15 disclosed sufficient evidence for the belief that Peress was disloyal.

2. Army Personnel Board

The following is a documented chronology relating to the consideration of the Peress case by the Army Personnel Board:

The November 6, 1953, letter from General Burress to Vice Chief of Staff Bolte [138] protesting the Peress promotion and recommending immediate separation was referred to the Personnel Branch, G–1, Washington, for action and response.[139] This division, after receiving the summary of the security files from G–2, forwarded the case to the Army Personnel Board on November 18, 1953, via the Office of the Adjutant General.

The Army Personnel Board is an advisory board on personnel matters within the Office of the Secretary of the Army. In the Peress case it was composed of Maj. Gen. Miller B. White, president, Maj. Gen. Daniel B. Strickler, and Brig. Gen. Frank C. McConnell. It was customary procedure for the recorder, in this case Lt. Col. Lowell L. Forbes (retired), to review the material referred for consideration and make a recommendation to the board. Thereafter, the board members without the recorder being present, would each review the case individually making his recommendation as to action to be taken. Normally the board did not meet as a group, although all members were physically in the same room. During the month of November 1953, the members of the Army Personnel Board considered 767 cases.[139a]

The pertinent portions of the transmittal document from G–1 to the Army Personnel Board read as follows:

> 1. Refer the attached case to APB for consideration and recommendation as to whether:
>
> (a) Officer should be designated as substandard and relieved from active duty with the first increment of the involuntary release program,[140] or
>
> (b) Officer should be released with later increments of the involuntary release program, or
>
> (c) Elimination proceedings should be initiated under AR 605–200, or
>
> (d) Officer should be retained on active duty.
>
> 2. Attached summary of information from G–2 indicates possible security risk. Headquarters First Army, and TSG recommend removal from the service.
>
> 3. If officer should be relieved from active duty after the completion of 12 months' service (January 1954) since he registered under the provisions of the Doctor Draft Act, commission will be revoked under the law (Public Law 84, 83d Cong. (Universal Military Training and Service, sec. 4)).
>
> By direction of the Assistant Chief of Staff, G–1 * * *.[141]

Following receipt of this communication the Personnel Board considered the case.

Only two documents were maintained by this board in connection with the Peress matter:

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[138] Pt. 4, p. 348, exhibit No. 54.
[139] Pt. 4, p. 339.
[139a] Pt. 4, p. 270.
[140] At that time there was in existence an involuntary release program which provided for the elimination of a certain percentage of officers from the Army, because of overstaffing.
[141] Pt. 4, p. 271.

The first, a worksheet, dated November 20, 1953, was forwarded to the members of the board and contained Lieutenant Colonel Forbes' recommendation as follows:

> Ample evidence this officer a security risk. See DF (Disposition Form) comment 1 (3d under). Suggest best alternative actions for "a" (gets him out soonest) and commission automatically terminated by law (par. 3, same DF). In no event should he remain on A/D (active duty) longer than necessary and why waste time, etc., with AR 605–200.[142]

It should be remembered the Board had two problems with which to deal. One was to get Peress off active duty and the second was to revoke his commission. What Forbes was suggesting was that Peress should be released from active duty under the involuntary release program set forth in paragraph 1a of the transmittal document. He furthermore pointed out that under this procedure, Peress' commission would be automatically terminated as indicated in paragraph 3, for under the involuntary release program Peress would receive a 90-day election period to clean up his affairs with the Army. As this 90-day period would take him past January 1, 1954, and thus give him service of more than 12 months, he, as a registrant under the Doctor Draft Act, would have his commission automatically revoked and be honorably discharged.

General White and the other Board members reviewed the case and afterward, on the same worksheet that Lieutenant Colonel Forbes had forwarded to him, General White recommended the following action be taken:

> RAD (relief from active duty) *now* as substandard. After RAD start new action under SR 420–5–1 and 600–220–1 to terminate ORC (Officer Reserve Corps). Commission *W/O Bd. Action* (Without Board Action). [Emphasis supplied.][143]

It is most significant that the aforementioned worksheet of the Board bears no comments by Generals Strickler or McConnell. In fact, nowhere does there appear any indication on their part of a concurrence in the President's recommendation, although it was submitted in their names.[144]

General White, who was called before the subcommittee to explain his recommendation, testified that he was in agreement with that part of Lieutenant Colonel Forbes' suggestion that Peress should be eliminated under the involuntary release program. However, he disagreed with the second part wherein Lieutenant Colonel Forbes stated: "Why waste time with Army Regulation 605–200," for he felt Peress' Reserve commission should be terminated pursuant to established Army regulations.[145] His recommendation regarding Peress was unfortunately predicated on a number of erroneous ideas and interpretations of those regulations:

1. General White was unaware that under the involuntary release program an officer could elect to take up to 90 days prior to being relieved.[146] As pointed out above, this 90-day period would have extended Peress' service to over a 12-month period and thus his commission would have terminated automatically.

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[142] Pt. 4, p. 273, exhibit No. 51.
[143] Pt. 4, p. 275, exhibit No. 51.
[144] Pt. 4, pp. 289, 320.
[145] Pt. 4, p. 275.
[146] Pt. 4, p. 276.

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2. He suggested that after Peress' release from active duty his commission be revoked under SR 420–5–1. At that time this regulation was not in existence.[147]

3. He further suggested that Peress' commission be revoked under 600–220–1 without Board action. At that time under 600–220–1 Board action was necessary.[148]

Major General Strickler was called to testify regarding his understanding of the recommendations of the Board on which he had served. He, too, predicated his interpretation on an erroneous understanding of Army regulations.

General Strickler maintained that not only did the Board reject all recommendations of G–1 "as individual propositions," but it rejected all the recommendations of the recorder, Lieutenant Colonel Forbes, as well.[149] This, of course, was contrary to what General White understood. General Strickler testified it was his intent, and he thought Generals White and McConnell similarly intended, that Peress should be relieved from active duty immediately, that is, as soon as administrative processes would permit, and thereafter action should be instituted under Army subversive regulations to determine how he should be deprived of his commission. His recommendation was predicated to a large extent on the fact that it was his understanding that Peress could be released almost immediately under the involuntary release program.[150] This, as is pointed out above, was completely in error, since there was a 90-day election period.

General Strickler testified that Peress' separation from the Army, as it finally occurred, was contrary to what he thought the Board had recommended, although he never called this matter to the attention of his superiors.[151]

An interrogatory was taken from General McConnell as to his understanding of what the Board on which he had served had recommended. He, too, predicated his interpretation on an erroneous understanding of Army regulations.

General McConnell stated that the Board intended to recommend that Peress should be relieved from active duty "right now," and thereafter, at a later time, action be taken under Army special regulations to consider the revocation of his commission.[152] He stated the Board turned down the suggestions made by the recorder of the Board, Lieutenant Colonel Forbes, as well as the recommendations made by G–1. General McConnell went a step further, however, and maintained it was not the Board's intent that Peress be relieved under the involuntary release program at all, but that he was to be relieved from active duty "now, immediately." [153] Under Army regulations at that time, this was not a practical possibility.

General McConnell further stated that it was the intention of the Board that, after Peress was relieved from active duty, Army subversive regulations should be employed to deprive him of his commission.[154]

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[147] Pt. 4, p. 276.
[148] Pt. 4, p. 276.
[149] Pt. 4, pp. 287, 288.
[150] Pt. 4, p. 293.
[151] Pt. 4, pp. 310, 311.
[152] Pt. 4, p. 319.
[153] Pt. 4, p. 319.
[154] Pt. 4, p. 319.

This confusion regarding the results of the Army Personnel Board deliberations was compounded by the events that followed.

After the Board reaches a determination, it is the customary procedure for the recorder to edit the results, cast them in the proper terminology, and then forward them to G–1 for necessary implementation. This was done in the Peress case.

When Lieutenant Colonel Forbes received General White's recommendation, he called to General White's attention by an interoffice memorandum, dated November 23, 1953 (which was the second document maintained by the Board in connection with the Peress case), to the fact that "without Board action" was inconsistent with the existing regulations.[155] General White in reply thereto disagreed, and Lieutenant Colonel Forbes was in effect told he was in error and thereupon, evidently without checking further, Forbes included General White's phrase in the recommendation he prepared for G–1.[156]

Lieutenant Colonel Forbes, however, did make some changes in the terminology used by General White. General White had written, as we have seen above:

> RAD [relief from active duty] *now* as substandard. After RAD start new action under SR 420–5–1 and 600–220–1 to terminate ORC [Officer Reserve Corps]. *Commission w/o Bd. action* [without Board action]. [Emphasis supplied.]

For that Lieutenant Colonel Forbes substituted the following:

> Recommend relief from active duty (par. 1a, comment No. 1) followed by action to terminate Reserve commission under SR [Special Regulation] 420–5–1 and SR 600–220–1.[157]

Where General White had used the phrase "RAD *now* as substandard," Forbes substituted for "now," "paragraph 1a, comment No. 1." He stated before this subcommittee that he thought that General White and the Board were referring to paragraph 1a of the original proposals by G–1, which in his opinion was the best course to be pursued. It can be seen from above that although this was true of General White, General Strickler and McConnell had something far different in mind as far as the "now" was concerned.

Lieutenant Colonel Forbes stated he was aware of the 90-day election period for officers relieved under the involuntary release program as suggested in paragraph 1a and that under the Doctor Draft Act Peress' commission would be automatically terminated if he remained on active duty for more than 12 months.[158] He admitted that his failure to delete from the recommendations he prepared the phrase relating to Peress' commission being revoked under Army Regulation 600–220–1 was entirely inconsistent with what he claimed he understood. Lieutenant Colonel Forbes testified that he had no knowledge of the fact that Army Regulation 420–5–1 was not in existence.[159]

It is significant that in accordance with normal procedures Lieutenant Colonel Forbes forwarded the Board's recommendation, as edited by him, to G–1 without seeking approval of any of the Board members.[160]

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[155] Pt. 4, pp. 326, 327; exhibit No. 53.
[156] Pt. 4, p. 329.
[157] Pt. 4, pp. 282, 330; exhibit No. 52.
[158] Pt. 4, pp. 325, 330.
[159] Pt. 4, p. 326.
[160] Pt. 4, p. 331.

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On November 25, 1953, a summary sheet was prepared by Lt. Col. George Moore of G–1 for the Chief of Staff. Paragraph 2, which follows, purports to state the decision of the Army Personnel Board.

> After coordination with G–2 and upon recommendation of the Army Personnel Board the determination was made to relieve Maj. Irving Peress from active duty after completion of 12 months' service under the involuntary release program since after that length of service his commission may be revoked as a special registrant (doctor draft) under section 4 Universal Military Training and Service Act as amended.

On this memorandum there is a note that the concurrence of Lieutenant Colonel Forbes to its contents was received.[161]

Forbes testified that in his opinion the G–1 statement of the Board's decision was not in harmony with the Board's decision as he understood it and furthermore he did not recall giving the G–1 interpretation his concurrence.[162] This is most difficult to understand, not only because Forbes' name appears on the memorandum for concurrence, but because it is in complete agreement with the original recommendation Forbes made to the Board on November 20, 1953, and is also in complete agreement with paragraph 1a of the G–1 memorandum.

Lt. Col. George Moore of G–1, testified that upon the arrival at G–1 of the Army Personnel Board's recommendation, as edited by Lieutenant Colonel Forbes on November 23, 1953, he observed the following inconsistencies:

(1) That SR 420–5–1 was not in effect;

(2) That Board action was required under SR 600–220–1;

(3) If Peress were relieved from active duty under the involuntary release program he could elect to take up to 90 days and therefore would have served more than 12 months, bringing his case within the resultant automatic revocation of his commission under the Doctor Draft Act.[163]

It is significant that G–1 noticed these three inconsistencies which eluded Lieutenant Colonel Forbes, the recorder of the Board, as heretofore mentioned. Lieutenant Colonel Moore testified he discussed these three inconsistencies with Lieutenant Colonel Forbes and thereafter, by agreement with Forbes, prepared his aforementioned memorandum of November 25, 1953, setting forth the Board's determination which was to relieve Peress from active duty after 12 months under the involuntary release program, as, after that length of service, his commission would be automatically revoked.[164] This, of course, was not in consonance with what Generals White, Strickler, and McConnell testified was the intent of the Board.

The above-mentionel memorandum containing the Army Personnel Board's recommendations was forwarded by G–1 to Lt. Gen. Walter Weible for approval by the Office of the Chief of Staff.

3. Types of discharges available to the Army in dealing with Peress

In general, three types of discharges were available for the Army's consideration in dealing with Maj. Irving Peress, a Reserve officer. These were: Honorable, general (which was under honorable conditions), and dishonorable. A Reserve officer legally could have been been discharged under conditions other than honorable by Board

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[161] Pt. 4, pp. 344, 349, exhibit No. 56.
[162] Pt. 4, p. 335.
[163] Pt. 4, pp. 340, 341.
[164] Pt. 4, p. 341.

action instead of by formal court-martial proceedings.[165] This was not true in the case of regular Army officers with more than 3 years' service. It was necessary to resort to court-martial proceedings in order to discharge such regular officers under less than honorable conditions.[166]

In actual practice, in order to avoid discrimination, the Army followed the policy of not discharging Reserve officers under less than honorable conditions except by court-martial.[167]

Lt. Col. Lowell L. Forbes testified that he could not recall any officer with a subversive background having been given less than an honorable discharge during the 4 years he acted as Recorder to the Army Personnel Board.[168]

Despite the fact that Army regulations so provided, Generals White and Strickler, who were members of the Army Personnel Board which considered the Peress case, were not aware that a Reserve officer could be given a discharge under other than honorable conditions by a Board.[169]

In the Peress case the Army Personnel Board directed no type of discharge because this issue was not presented to the Board.[170] It is observed, however, that one of the functions of this particular Board was to direct certain types of discharges. General White testified that as to officers the Army Personnel Board could direct only an honorable or a general discharge, but not a discharge under other than honorable conditions.[171] As to enlisted men, General Strickler testified that the Army Personnel Board could direct an undesirable discharge which is under other than honorable conditions. It could not direct a similar discharge for officers.[172]

4. Action by Office of the Chief of Staff and events subsequent thereto

At the time the Peress matter was referred by G–1 to Lt. Gen. Walter L. Weible, he had occupied the position of Deputy Chief of Staff for a period of 1 month. This was the first subversive case he had been requested to consider. Normally, matters of this type would not have been presented to General Weible but rather would have gone through channels, to the Office of the Secretary of the Army. In this instance, the matter apparently came to General Weible for decision because of the interest of General Bolte, Vice Chief of Staff, who previously had referred General Burress' letter to G–1 for handling.[173]

Because General Weible was dubious as to whether the recommended method of elimination was proper for a security risk, he, on December 4, 1953, requested the following additional material from G–1:

1. The Peress file along with recommendations of the Army Personnel Board;

2. Forms 98, 98a, and 398 completed by Peress;

3. Existing Department of the Army policy and Department of Defense policy covering subversive cases.[174]

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[165] Pt. 4, p. 301.
[166] Title I, Public Law 810, 80th Cong., June 29, 1948.
[167] Pt. 4, p. 342.
[168] Pt. 4, pp. 333, 334.
[169] Pt. 4, pp. 277, 290.
[170] Pt. 4, p. 279.
[171] Pt. 4, p. 277.
[172] Pt. 4, p. 297.
[173] Pt. 5, p. 352.
[174] Pt. 5, p. 353, pt. 4, p. 345.

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In compliance with this request, G–1 on December 12, 1953, forwarded the material to General Weible. In the transmittal memorandum it was indicated that the determination to relieve Major Peress after completion of 12 months' service under the involuntary release program and the automatic revocation of his commission under the Doctor Draft Act was in accordance with the Department of Defense and Department of the Army policy.[175]

General Weible was still uncertain as to the proposed method of release so he referred the matter to the Office of the Judge Advocate General. The latter notified him that it also concurred in the recommended action.[176] General Weible then forwarded the file to General Bolte with his concurrence.

Thereafter, with General Bolte's approval, the Assistant Chief of Staff, G–1, on January 11, 1954, instructed the Adjutant General to take the necessary action to:

> (*a*) Relieve from active duty Maj. Irving Peress, O1893643, DC, upon completion of 12 months' active military service, granting officer up to 90 days' notice if he so desires.
>
> (*b*) Discharge Major Peress from his commission under the provisions of section 4 (b), Public Law 84, 83d Congress, as amended. * * *[177]

Pursuant thereto, the Office of the Adjutant General prepared orders for Peress, pertinent portions of which are quoted as follows:

AGPO–SC 201, Peress, Irving — JANUARY 18, 1954.

Subject: Relief from active duty and separation from the service.
To: Commanding general, First Army.

1. It is desired that Maj. Irving Peress, O1893643, DC, be relieved from active duty and honorably discharged from the Army at the earliest practicable date depending on officer's desires, but in any event not later than 90 days from date of receipt of this letter.

2. Individual or extract orders will be issued by direction of the President citing section 4 (b), Public Law 84, 83d Congress, as amended. Relief from active duty and discharge will be effective upon expiration of authorized rail travel time from place of separation to home of record. * * *

* * * * * * *

4. All commissions held by him will be terminated on effective date of discharge and he will not be tendered a reappointment in the USAR except by authority of the Department of the Army. * * *

5. Officer will not be separated prior to determination that he is physically qualified for separation by your headquarters. A prompt report will be made to this office in the event action cannot be taken without undue delay.[178]

As will be seen, the above order specifies an honorable discharge. It is noteworthy that this is the first Army document designating the type of discharge to be given Peress, it having been the position of all persons handling the case up to this point that the type of discharge was not presented for consideration. Testimony has revealed that unless the Adjutant General is specifically instructed as to the type of discharge, an honorable discharge will be directed. In this case, no specific instructions had been issued to the Adjutant General.[179] Testimony further revealed that the Doctor Draft Act contained no provisions for anything except honorable discharge.[180]

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[175] Pt. 5, p. 353, pt. 4, p. 345.
[176] Pt. 5, p. 353.
[177] Pt. 4, p. 345.
[178] Pt. 4, p. 346; p. 350, exhibit No. 61.
[179] Pt. 4, p. 346.
[180] Pt. 4, p. 347.

The order of Peress' discharge was received by General Zwicker at Camp Kilmer on January 23, 1954.[181] Peress elected to be separated as of March 31, 1954.[182] However, Peress appeared before the Senate Permanent Subcommittee on Investigations at New York City on January 30, 1954, and thereafter, on February 1, 1954, requested of General Zwicker that he be given an immediate discharge. General Zwicker determined that the earliest possible time to effect this action was on the afternoon of February 2, 1954.[183] This determination was concurred in by General Murphy, First Army Chief of Staff.[184]

It is of interest that although on February 1, 1954, General Zwicker was aware of the fact that Senator McCarthy had requested that court-martial action be taken against Peress, he effected the early release of Peress resulting in the Army's loss of jurisdiction over him, thus precluding any possibility of court-martial action. He testified that he permitted the discharge of February 2 because he felt his superiors had considered every aspect of the case, including possible court-martial action. It was his further contention that he had no authority to hold up the discharge until receipt of further instructions because pursuant to the separation orders of January 18, 1954, he was required to comply with any requests of Peress relating to time of separation.[185]

5. The Adams-Weible conference of February 1, 1954

The last opportunity to prevent the honorable discharge of Maj. Irving Peress was presented to Gen. Walter Weible and John G. Adams, General Counsel, Department of the Army, on February 1, 1954.[186]

According to his testimony, John Adams' first contact with the Peress matter occurred on January 4, 1954, when Roy Cohn, chief counsel of the Senate Permanent Subcommittee on Investigations, informed him of a medical officer then assigned to Camp Kilmer who was a Communist. Thereafter, pursuant to a telephone call from Francis P. Carr, staff director of the subcommittee, Mr. Adams requested General Zwicker, on January 28, to have Peress appear before the subcommittee in New York City on January 30. As he recalled, it was not until January 28 that he was aware of Peress' identity.[187]

Sometime during the day of February 1, 1954, Adams learned that Peress was to be discharged February 2 rather than March 31, 1954, as originally scheduled.[188] Subsequent thereto, and during the afternoon of February 1, 1954, a letter of that date from Senator McCarthy to Secretary of the Army Stevens was brought to him for attention, inasmuch as Secretary Stevens was then on a trip to the Far East.[189] In his letter which had been carried to the Pentagon by special messenger on February 1, Senator McCarthy indicated that the subcommittee had received "convincing indications" that Peress had engaged in subversive activities at Camp Kilmer. Furthermore, that while appearing before the subcommittee in executive session

[181] Pt. 5, p. 401.
[182] Pt. 5, p. 403.
[183] Pt. 5, pp. 404, 405.
[184] Pt. 5, pp. 410, 411.
[185] Pt. 5, pp. 411, 412.
[186] Pt. 6, p. 444.
[187] Pt. 6, pp. 429, 430.
[188] Pt. 6, p. 432.
[189] Pt. 6, p. 432.

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he invoked the fifth amendment to the Constitution as to all questions relating to his Communist Party activities. Senator McCarthy suggested court-martial proceedings be immediately instituted against Peress.[190]

Shortly thereafter, on February 1, 1954, Mr. Adams took Senator McCarthy's letter to the office of Gen. Walter L. Weible, Deputy Chief of Staff for Operations and Administration, for the purpose of discussing with him what, if any, action should be taken on Senator McCarthy's suggestion.

Mr. Adams stated that his decision to take this matter up with General Weible was predicated on the fact that Senator McCarthy's letter raised questions ordinarily within the jurisdiction of offices under General Weible's administrative responsibility. He stated that he did not discuss Senator McCarthy's letter with any of the Assistant Secretaries of the Army inasmuch as he [Adams] was charged with the responsibility as to all matters relating to congressional liaison.[191]

Mr. Adams and General Weible agreed that invocation of the fifth amendment to the Constitution was not in itself sufficient grounds to initiate court-martial proceedings.[192] During the conference Adams informed General Weible that he was not aware of any further evidence upon which court-martial proceedings might be predicated nor did he anticipate receiving any additional information from Senator McCarthy because at that time his relations with the subcommittee had deteriorated considerably.[193] In view of this, and since the Army had been processing the Peress case for a considerable period of time, it was concluded that the decision already made by the Army to separate Major Peress under the involuntary release program and honorably discharge him should stand.

In his testimony before the subcommittee General Weible indicated that Senator McCarthy's letter of February 1 was such as to justify the Department of the Army's holding up Peress' separation until information in the possession of the subcommittee might be considered. He conceded that notwithstanding the fact that orders had already been issued to honorably discharge Major Peress, there was sufficient time for the Department of the Army to cancel these orders. General Weible stated that he wished he had taken it upon himself to effect such cancellation.[194]

Mr. Adams agreed that if he had advised General Weible to hold up the Peress discharge, General Weible, undoubtedly, would have followed this advice. He admitted that he thus had the "last clear chance" to keep Peress in the service, but failed to do it.[195]

6. Disposition of DD form 390

The crux of the difficulty as to DD form 390 lies in the fact that it never reached the attention of those Army officers responsible for actions leading to the ultimate honorable discharge of Irving Peress.[196] Had it so reached their attention, the final result might well have been different.

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[190] Pt. 5, p. 423, exhibit No. 64.
[191] Pt. 6, pp. 434, 435.
[192] Pt. 6, p. 435.
[193] Pt. 6, pp. 436, 437.
[194] Pt. 5, p. 362.
[195] Pt. 6, p. 444.
[196] Pt. 6, pp. 439, 440.

As previously indicated, DD 390 was the initial form containing loyalty data, which was completed by Peress prior to his commissioning.[197] Under item 32 thereof, he denied membership in any organization advocating a subversive policy or seeking to alter the form of government of the United States by unconstitutional means.

However, after he was commissioned, he executed DD forms 98 and 398 invoking the constitutional privilege to questions relating to membership in subversive organizations. Had he similarly invoked the privilege on DD form 390 he may never have been initially commissioned.

The discrepancy between Peress' answers on DD forms 98 and 398 and that on DD form 390 should have suggested to an individual who had all forms before him that the answer to item 32 of 390 was a false statement and thus, apparently, in violation of section 1001, title 18, United States Code.

Peress executed DD form 390 in triplicate on May 26, 1952. The normal distribution of the three copies is as follows:

One copy to the local selective service board.

One copy to the Office of the Surgeon General.

One copy to the files of the reserve section, headquarters, First Army (Exhibit No. 87).[198]

Maj. Floyd E. Van Sickle, Jr., testified that it was normal procedure to forward DD form 390 to the Office of the Surgeon General along with the notification that the officer is eligible to be called to active duty. This notification as to Peress was sent October 28, 1952.[199] The master personnel file of any officer in the service is maintained in the Office of the Adjutant General in Washington, D. C. One copy of this form 390 was forwarded from First Army to the Adjutant General on September 23, 1953, as an enclosure to the Peress September 9 letter requesting grade readjustment.[200]

Apparently DD form 390 was not considered by Army Intelligence when it conducted its investigation of Peress, although a copy thereof was on file in the office of the medical section at First Army. It is not mentioned in the investigative report and, therefore, G–2 in Washington, D. C., was not aware of the information on this form.[201]

The master personnel file of an officer is generally considered in connection with any type of personnel action and a copy of DD form 390 should have appeared therein after receipt of the First Army letter September 23, 1953.

Generals White and Strickler of the Army Personnel Board, General Walter L. Weible, the Deputy Chief of Staff, and John Adams, departmental counselor, all testified that they were unaware of form 390 and its contents.[202] General Strickler testified that had he been so aware he would have recommended that the case be submitted to the Judge Advocate General for legal determination as to action to be taken.[203] John Adams testified that had he been aware of 390 on February 1, 1954, he undoubtedly would have held up the contemplated honorable discharge of Irving Peress.[204]

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[197] Pt. 1, p. 15, exhibit No. 1.
[198] Pt. 6, p. 513, exhibit No. 87.
[199] Pt. 1, p. 17.
[200] Pt. 1, p. 60, exhibit No. 2.
[201] Pt. 2, p. 158, exhibit No. 20.
[202] Pt. 4, p. 275; p. 296; pt. 5, p. 356; pt. 6, p. 439.
[203] Pt. 4, p. 296.
[204] Pt. 6, p. 444.

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It is, therefore, clear that knowledge of a discrepancy between DD forms 390 and 398 on the part of responsible officials in the Pentagon would have been sufficient basis to hold up action leading to Peress' honorable discharge and to consider the initiation of court-martial proceedings. Since the Army lost jurisdiction of Peress by its granting of the honorable discharge on February 2, this subcommittee on March 8, 1954, referred the matter of the execution of DD forms 390, 98, and 398 to the Department of Justice for possible prosecution under the aforementioned false statements statute.

Part V—The Inspector General's Investigation of Irving Peress

Pursuant to instructions received from Secretary Stevens during the conference of February 5, 1954, John Adams on the same date requested that the Inspector General conduct an investigation into all the facts and circumstances surrounding the handling of the Peress case.[205] It might be observed that Secretary Stevens first heard of the Peress case on February 3, 1954, while returning to Washington from a trip to the Far East. At that time he discussed briefly the February 1 letter from Senator McCarthy with an assistant departmental counsel.

On February 24, 1954, Secretary Stevens met with members of the subcommittee, all of whom were Republicans, and agreed to furnish the names of those individuals responsible for the handling of the Peress case as would be revealed by the Inspector General's investigation. The Inspector General's investigation was completed and the report placed in channels on April 16, 1954.[206] As late as May 3, 1954, Secretary Stevens stated to the special Mundt subcommittee that the "IG report has not been completed the last I heard." [207] Finally, on May 7, 1954, Secretary Stevens informed the special subcommittee that the report had been completed.[208] Pursuant to a request of the special subcommittee on May 10, 1954, Secretary Stevens instructed the Inspector General to furnish him with the following material:

1. A list of officers responsible for the various personnel actions concerning Irving Peress;
2. The extent of John Adams' participation in the Peress case.

Accordingly, the requested information was furnished to the Secretary on the same date.[209]

John Adams' participation in the Peress case as reported by the Inspector General to Secretary Stevens was limited to the preparation of the February 5 memorandum requesting the Inspector General's investigation, an inquiry of G–2 on January 27 as to whether Peress had been separated, and a request of General Zwicker that he appear before Senator McCarthy's committee on January 30. It is noteworthy that the February 1 Adams-Weible conference was not included.

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[205] Pt. 6, pp. 457, 458; exhibit No. 78.
[206] Pt. 6, p. 480.
[207] Special Senate investigation on charges and countercharges involving Secretary of the Army Robert T. Stevens, John G. Adams, H. Struve Hensel, and Senator Joe McCarthy, Roy M. Cohn, and Francis P. Carr, pt. 15, p. 594.
[208] Ibid., pt. 23, p. 886.
[209] Pt. 6, p. 482.

A letter to Mr. Ray H. Jenkins, counsel to the special Mundt subcommittee, dated May 11, 1954, although signed by Secretary Stevens was not actually forwarded to Mr. Jenkins.[210] As revealed by the letter, its purpose was to transmit to the special Mundt subcommittee a list of names of personnel taking an active part in the Peress matter and "a statement regarding Mr. Adams' participation" in the Peress case. A line was drawn through the phrase relating to Adams' participation in the case. A second letter, dated May 11, 1954, was identical with the first except that the phrase concerning Adams' participation was deleted. Although signed by Secretary Stevens, this letter was not used.[211] Finally, a letter, dated May 13, 1954, was approved by Secretary Stevens to transmit to the subcommittee the names of 28 officers "taking an active part in the personnel actions concerning Irving Peress." This list contained neither the name of John Adams nor General Weible.[212] In addition to his conference with John Adams on February 1, General Weible, as is known, approved the proposed separation of Peress under the involuntary release program.

Secretary Stevens testified that the information relating to Adams' participation in the Peress case was not furnished the special Mundt subcommittee upon the advice received from the Army's counsel, Mr. Joseph P. Welch, on or about May 11.[213] It was felt, despite the specific request of the special subcommittee for this information, that the Peress case was not pertinent to the Army-McCarthy hearings and further that, since Adams was to commence his testimony before the special subcommittee on May 11, he could testify personally as to his participation.[214]

The letter transmitting the list of 28 to the special subcommittee was dated May 13, 1954. As late as May 24, 1954, Mr. Jenkins stated that he had not as yet received the list. However, on May 26, he reported that the list had finally arrived.[215] Secretary Stevens testified that he turned over the May 13 letter and the list to his aide, Colonel Belieu, who retained the material pending advice from Mr. Welch. Further that the letter and the list were retained for more that 10 days prior to being furnished the special subcommittee because the subcommittee was inactive during most of the period, taking testimony on only 1 day during the period May 14 to May 24.[216] Aside from the fact that hearings were actually held on May 14, 17, and 24, 1954, it is difficult to follow Secretary Stevens' reasoning in this regard inasmuch as he was not asked to present personally the list to the subcommittee. It could have been mailed to Mr. Jenkins. Of possible significance is the fact that Mr. Adams' testimony ended on May 24.

The following, concerning the list of the 28 officers[217] predicated on the Inspector General's investigation, suggests serious shortcomings in that investigation:

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[210] Pt. 6, p. 485; exhibit No. 84.
[211] Pt. 6, pp. 485, 486; exhibit No. 85.
[212] Pt. 6, p. 488; exhibit No. 86.
[213] Pt. 6, p. 483.
[214] Pt. 6, p. 482.
[215] Special Senate Investigation, etc., pt. 41, p. 1517.
[216] Pt. 6, p. 489.
[217] Pt. 1, p. 40.

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(*a*) Only 8 officers of the 28 considered to have participated actively in the personnel actions concerning Peress were actually interviewed by the Inspector General.

(*b*) The Inspector General's list of 28 persons did not include the following officers as taking an active part in the personnel actions, but these officers were interviewed by the Inspector General:

Lt. Col. Ronald F. Thomas, former Chief, Counter-Intelligence Division, G–2, First Army ;

Lt. Col. James D. Anders, who was Chief, Disposition Section, Security Division, G–2, Department of the Army;

Lt. Col. Chester T. Brown, who was G–2, Camp Kilmer, N. J.;

Maj. Curtis R. Kirkland, who was Assistant Adjutant General, Reserve Forces Division, First Army;

Brig. Gen. Ralph W. Zwicker, formerly Commanding General, Camp Kilmer, N. J.[218]

The fact that all of the above-listed officers played a key role in the Peress case is obvious from a review of the preceding facts contained in this report.

(*c*) The following individuals were neither interviewed by the Inspector General, nor did their names appear on the list of 28:

Lt. Col. Samuel A. Gordon (retired), former G–2, Camp Kilmer;

John Adams, Departmental Counselor;

Lt. Gen. Walter Weible, Deputy Chief of Staff.

According to his testimony General Weible felt that his name should have appeared on the list and as a matter of fact he lodged a protest with the Inspector General's investigating officer in this regard.

Two letters of admonishment arising out of the Inspector General's investigation of the Peress case also indicate deficiencies in that investigation. In this connection, on May 12, 1954, the Adjutant General, Washington, instructed the Commanding General, First Army, to take appropriate action against the individuals responsible for the following delays revealed by the Inspector General's report:

(*a*) Delay in initiating a complaint-type investigation of Peress from December 1, 1952, until February 5, 1953;

(*b*) Delay in handling correspondence at Camp Kilmer from May 25, 1953, until June 15, 1953;

(*c*) Delay in handling correspondence at First Army from June 15, 1953, until July 7, 1953.[219]

Pursuant to these instructions, General Burress, Commanding General, First Army, issued letters of admonishment to Lt. Col. Samuel Gordon for the delay between May 25 and June 15, 1953;[220] and to Lt. Col. Ronald Thomas for the delays between December 1, 1952, until February 5, 1953, and June 15, 1953, until July 7, 1953.[221] These were the only letters of admonishment issued as a result of the Inspector General's investigation.

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[218] Pt. 1, p. 61, exhibit No. 4.
[219] Pt. 2, p. 157, exhibit No. 19.
[220] Pt. 3, p. 172.
[221] Pt. 2, p. 155, exhibit No. 18. Although Lieutenant Colonel Thomas, as Chief of the Security Division, G–2, First Army, was admonished for a delay between December 1, 1952, and February 5, 1953, he did not actually assume his duties in the Security Division, G–2, First Army, until January 27, 1953. Furthermore, if he had actually been assigned to that Division during the period December 1, 1952, to February 5, 1953, he would not have been responsible for any delay except that commencing January 5, 1954, since the Peress matter was not received in the Security Division until the latter date.

It is difficult to understand why Lieutenant Colonel Gordon, who was responsible for a delay deemed of sufficient importance to warrant admonishment, was neither interviewed by the Inspector General nor included on the list of 28 officers taking an active part in the Peress case. Furthermore, the name of Lieutenant Colonel Thomas, who was also admonished, was not included on the list of 28 officers.

It is of significance that the delays listed above apparently were the only errors in connection with the handling of the Peress matter considered by the Inspector General to be of a sufficiently serious nature to warrant admonishment. Clearly many other errors equally or more serious were committed, not only at First Army, but also at the Pentagon. Worthy of note is the fact that no officers assigned to Army Headquarters in Washington were admonished.

Part VI—Telephone Conversation Between General Zwicker and C. George Anastos, January 22, 1954

Files of this subcommittee contain a memorandum prepared by C. George Anastos, former assistant counsel, wherein it is reflected that on January 22, 1954, General Zwicker furnished Mr. Anastos certain specific information of a security nature relating to Irving Peress including the fact that Peress was a card-carrying Communist from 1948 to 1952; that in 1951 he was a Communist Party organizer; that from 1943 through 1952 he was registered with the American Labor Party; that his wife, Elaine, was a member of the Communist Party and that she attended Communist Party meetings and held such meetings in her home.[222]

It was material to the subcommittee's inquiry into the Peress matter to determine the nature and extent of the security data in the Army's possession in January of 1954, in disregard of which Major Peress was honorably discharged.

Accordingly, when he appeared before the subcommittee on March 23, 1955, General Zwicker was interrogated on the security information purportedly furnished Mr. Anastos, as reflected by the latter's memorandum of January 22. General Zwicker categorically denied giving security information of any kind to Mr. Anastos.[223]

Inasmuch as General Zwicker's testimony in this respect was in conflict with that of Mr. Anastos before the Watkins subcommittee,[224] Mr. Anastos was called before this subcommittee on March 31, 1955. He stated that General Zwicker furnished by telephone all the specific security information which was attributed to him in the memorandum of January 22 and which was in the subcommittee files. He further testified that his telephone conversation with General Zwicker was monitored by Miss Mary Morrill, a former subcommittee stenographer, and that both he and Miss Morrill took notes of the conversation. Therafter, he dictated the memorandum of January 22 from his notes as well as those of Miss Morrill, which she had typed.[225] Miss Morrill recalled monitoring the Anastos-Zwicker telephone conversation of January 22 and Mr. Anastos dictating to her the results thereof. She did not recall Mr. Anastos placing any information in the memo-

[222] Pt. VII, pp. 518, 530, exhibit No. 91.
[223] Pt. V, pp. 389, 390.
[224] Printed hearings on Senate Resolution 301, September 13, 1954, pp. 518–520.
[225] Pt. VII, pp. 517–519.

randum which had not been furnished to him by General Zwicker that day on the phone. Although she could not recall all of the specific information furnished by General Zwicker, she did remember a discussion concerning the American Labor Party and the fact that Peress' wife, Elaine, was mentioned.[226]

Because of the conflicting testimony, the subcommittee on April 12, 1955 forwarded all testimony and documents in connection therewith to the Department of Justice for study and advice as to whether there appeared to be a violation of the perjury statute.

Conclusions

This subcommittee has reached the following conclusions with respect to the Army's handling of Maj. Irving Peress:

I. The Secretary of the Army, or his superiors in the Department of Defense under whose directions he may have been acting, are to be criticized for the delay of almost 1 year before the facts concerning the Peress case were publicly released. Such unnecessary delay served to unduly arouse and increase suspicions of the public as to possible Communist influences and thereby was a disservice not only to Army personnel involved in the Peress case, but also to the Army as a whole, to this subcommittee, to the Congress, and to the general public.

II. Mr. John Adams, Counselor, Department of the Army, showed disrespect for this subcommittee when he chose to disregard Senator McCarthy's letter of February 1, 1954, and allowed Peress to be honorably discharged on February 2, 1954.

III. The list of the 28 officers which was submitted by the Department of the Army as having taken an active part in the personnel actions concerning Irving Peress was deceptive and a gross imposition on the special Mundt subcommittee, and also on this subcommittee.

IV. The Inspector General's investigation of the Peress matter was inadequate, demonstrating inefficiency.

V. Had the Inspector General's report on Irving Peress been furnished to this subcommittee, as was the Inspector General's report on Pvt. G. David Schine to the special Mundt subcommittee, the preliminary investigation by this staff and the public hearings held by this subcommittee would have been expedited. This apparent inconsistent policy of responsible officials in the Department of Defense and the Department of the Army would seem to indicate that the criterion for furnishing such reports to Congress was whether they are or are not favorable to the department involved.

VI. Irving Peress' promotion, change of orders, and honorable discharge were the result of a combination of factors: individual errors in judgment, lack of proper coordination, ineffective administrative procedures, inconsistent application of existing regulations, and excessive delays.

VII. During the period of time Peress was in the service, there was no well-defined policy or prescribed procedures in the Army which would insure the effective handling of security risks.

VIII. Although the Army had urgent requirements for doctors, dentists, and veterinarians during the Korean conflict, expeditious

[226] Pt. VII, pp. 521–524.

processing of these specialists could have been accomplished without sacrificing fundamental security safeguards. Had such initial safeguards been retained, Irving Peress would not have been tendered a commission, and thus would not have served for 13 months as an officer on active duty.

IX. At no time when Peress was on active duty, between January 1, 1953, and February 2, 1954, was any investigation or surveillance conducted by G–2 to determine his activities while in the Army with the exception of a most superficial spot check at Camp Kilmer.

X. Much of the difficulty attendant the Peress case was due not only to the failure of the Army to assign adequate personnel to G–2 both in the field and at headquarters in Washington, but also to the practice of filling responsible G–2 positions with officer personnel untrained and inexperienced in the field of intelligence. These practices strongly suggest a lack of appreciation of the importance of intelligence, particularly in these times. The field of intelligence is a specialized one, and effective results are not attainable therefrom unless it is treated as such.

XI. G–2 policy of transmitting copies of investigative reports from one field command to another where the subject is assigned, through G–2 headquarters, Washington, rather than directly to the command in the field, as well as to G–2 Washington, produces unnecessary delay in apprising the command of facts concerning personnel under its jurisdiction that might require immediate protective measures.

XII. With respect to the cases presented to it, the Army Personnel Board must make recommendations seriously affecting the future of each individual concerned. Under these circumstances, no recommendation should be made except after a most careful and thorough consideration of each case by the Board members. Such consideration cannot be expected of any three-man Board handling hundreds of cases each month.

XIII. Some 48 errors of more than minor importance were committed by the Army in connection with the commissioning, transfer, promotion, and honorable discharge of Irving Peress. The Army has since instituted a number of procedural changes. The failure of responsible Army officials to effect most of these changes until after the Peress case became an incident of national interest is inexcusable.

The principal errors committed by the Army in the case of Dr. Irving Peress are listed below. The footnotes refer to the applicable corrective procedural changes made by the Army. As will be observed, the Army has taken corrective action applicable to 19 of the 48 errors committed. It is, of course, realized that certain of these errors, such as the failure of an individual to exercise good judgment, are not susceptible to being corrected by procedural changes:

1. The policy of the Army to commission doctors, dentists, and veterinarians prior to execution of loyalty forms.[227]

2. The provisions of SR 600–220–1 which permitted an officer to be called to active duty despite the existence of unresolved security information.

3. The failure of Major Kirkland to initiate cancellation of Peress' active duty orders, although such action was initiated in

[227] Appendix No. 3, procedural change No. 1, Department of the Army.

the cases of five other doctor draft officers who invoked the fifth amendment on loyalty forms during the same period Peress executed these forms.

4. Similar failure on the part of Major Van Sickle to initiate cancellation of Peress' active duty orders.

5. Although action initiated as to the above five officers should have alerted G–2, First Army, and G–2, Department of the Army, to the dangers inherent in provisions of SR 600–220–1, no steps were taken to delay the entry on active duty of all other doctor draft officers to whom active orders had been issued until loyalty forms were first examined.

6. The failure of Major Stambaugh, G–2, First Army, upon receipt of Peress' DD Form 398, to initiate action looking to cancellation of active duty orders.

7. Although the February 12, 1953, notification from G–2, First Army, to the Adjutant General, Washington, D. C., should have precluded any transfer of Peress, he was actually reassigned to Camp Kilmer on March 13, 1953.[228]

8. Failure of the Adjutant General, Camp Kilmer, when he forwarded the September 9 letter of Peress requesting a promotion, to include a statement regarding the unfavorable security information on Peress which had been furnished to him by G–2, Camp Kilmer.

9. Failure of G–1, Camp Kilmer, when it returned the September 9 letter of Peress to the Adjutant General, Camp Kilmer, to suggest that the Adjutant General in forwarding the September 9 letter include a statement regarding the unfavorable security information on Peress.

10. Failure of Major Kirkland to examine any files prior to preparing the First Army endorsement recommending favorable action on Peress' September 9 letter wherein Peress requested a promotion.[229]

11. Failure of Major Van Sickle to review carefully Medical Section files prior to preparation of the endorsement recommending favorable action on the September 9 letter of Peress.

12. Failure of the Office of the Surgeon General to consider other than professional qualifications files before recommending readjustment of medical, dental, and veterinary officers.[230]

13. Failure of Colonel Hyde and Major McKenzie on October 26, 1953, to alert their superiors to the likely consequences of the procedures then being followed in implementing Public Law 84, as on that date they were fully cognizant that consideration of only professional qualifications of officers being promoted was inadequate and would result in the promotion of officers on whom substantial derogatory information existed.

14. Failure of Lieutenant Colonel Gordon, G–2, Camp Kilmer, to notify his Commanding General of the fact that Peress, an officer under his command, was a security risk.

15. Failure of Lieutenant Colonel Brown, G–2, Camp Kilmer, from July 15, 1953, until October 21, 1953, to notify General Zwicker that Peress was a security risk.

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[228] Appendix No. 3, procedural change No. 1, Office of the Adjutant General.
[229] Appendix No. 3, procedural change No. 5, First Army Headquarters.
[230] Appendix No. 3, procedural change No. 1, Office of the Surgeon General.

16. Failure of General Zwicker to require that G–2, Camp Kilmer, immediately apprise him of unfavorable information concerning personnel in his command.

17. The issuance by the Adjutant General, Department of the Army, of a letter of appointment to Peress in the grade of major, notwithstanding notification from G–2, First Army, some 8 months previously that a security investigation had been initiated on Peress.[231]

18. The G–2 technical requirement that 3 additional copies of DD form 398 be obtained from Peress prior to initiation of investigation resulting in a 1-month delay.[232]

19. Although the additional copies of DD form 398 were received by G–2, First Army, on January 5, 1953, investigation was not commenced until February 5, 1953.

20. The 3½-month delay between February 5, 1953, and May 14, 1953, before the First Army notification of the G–2 investigation finally reached Peress' place of assignment. Contributing to this delay were the following errors:

(*a*) Brooke Medical Center, Fourth Army, advising G–2, Fourth Army, that Peress was never assigned there, which was contrary to fact, resulting in erroneous information being furnished to G–2, First Army.

(*b*) The records of First Army revealing that Peress had been transferred to Camp Stoneman when he was actually transferred to Fort Lewis, Wash.

(*c*) Failure of G–2, Department of the Army, to check with the Office of the Surgeon General or any other logical source to determine Peress' actual place of assignment before forwarding G–2, First Army's notification of investigation to Sixth Army.

21. The preparation of an interrogatory at G–2, Washington, for completion by Peress at Camp Kilmer when information in the possession of G–2, Washington, was sufficient to warrant recommendation of Peress' removal.[233]

22. Army regulation requiring G–2, Department of the Army, to forward the intelligence file to the commander in the field for the latter's recommendation despite the existence of information in possession of G–2, Department of the Army, sufficient in and of itself upon which to base a recommendation of dismissal. This resulted in a delay in the disposition of the Peress matter of almost 2 months.[234]

23. Delay at G–2, Department of the Army, from May 2 to May 21, 1953, before the investigative file was returned to the commanding general, First Army, and to Camp Kilmer for recommendations.[234]

24. Delay at G–2, Department of the Army, between approximately July 16 to August 10, 1953, before the interrogatory was forwarded to Camp Kilmer.[234]

25. The 47 days between September 10, 1953, and October 27, 1953, during which no action whatsoever was taken on the Peress

[231] Appendix No. 3, procedural change No. 1, Office of the Adjutant General.
[232] Appendix No. 3, procedural change No. 1, First Army Headquarters.
[233] Appendix No. 3, procedural change No. 2, G–2, Department of the Army.
[234] Appendix No. 3, procedural change No. 1, G–2, Department of the Army.

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case by G–2, Department of the Army, despite the fact that as of September 10 the investigation had been completed for some 4 months and 7 separate recommendations for Peress' separation had been made.[234]

26. Failure of G–2, Department of the Army, and G–2, First Army, to establish an effective system of priorities for the expeditious handling of important cases.[234]

27. Failure of G–2, Department of the Army, to take any action following its completion of the summary of the Peress file on November 6, 1953, until November 18, 1953, when the summary was furnished to G–1 at the latter's request. On November 18, G–2, Department of the Army, for the first time recommended Peress be separated from the Army.[234]

28. Irving Peress, a security risk, received an honorable discharge.[235]

29. Failure of G–2, First Army, from June 15, 1953, until July 7, 1953, to take any action on the Peress file after its return from G–2, Camp Kilmer.[236]

30. Failure of the Army Personnel Board to consider the type of discharge to be given Peress when the Peress case was before it.[237]

31. General White, president of the Army Personnel Board, in recommending action to be taken as to Peress, not only citing a nonexistent regulation but also a regulation under which the action recommended could not be taken.

32. Preparation of the Army Personnel Board's recommendation by Lieutenant Colonel Forbes, the recorder, contrary to the intent of the Board members.

33. The paucity of the Army Personnel Board records which contributed to the implementation of the Board's recommendation contrary to the intent of the members.

34. The absence of a requirement that each member of the Army Personnel Board approve the Board's recommendation as prepared by the recorder for subsequent implementation.

35. General White, president of the Army Personnel Board, being unaware of the 90-day election period under the involuntary release program resulting in the automatic revocation of Peress' commission and his subsequent honorable discharge which was contrary to the intent of the Board members.

36. General Strickler of the Army Personnel Board similarly being ignorant of the 90-day election period.

37. General White being unaware that a Reserve Officer could be given less than an honorable discharge by Board action.

38. The procedure whereby the President of the Army Personnel Board prepared the proposed Board's recommendation and passed it on to the recorder for submission to G–1, without concurrence of the other Board members in the recommendation so prepared.

39. Lieutenant Colonel Forbes' apparent concurrence in G–1's interpretation of the Board's recommendation, without first conferring with Board members.

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[234] Appendix No. 3, procedural change No. 1, G–2, Department of the Army.
[235] Appendix No. 3, procedural change No. 6, Department of the Army.
[236] Appendix No. 3, procedural change No. 3, First Army Headquarters.
[237] Appendix No. 3, procedural change No. 3, Department of the Army.

40. Failure of the Army Personnel Board members to point out to their appropriate superiors the fact that Peress was removed from the Army in a manner contrary to the intent of the Board.

41. Failure of Lieutenant Colonel Forbes to reiterate to General White that he was incorrect in his understanding that board action was not required under 600–220–1.

42. Failure of General Weible, Deputy Chief of Staff, and General Bolte, Vice Chief of Staff, to consider the type of discharge which would be given Peress.

43. The discriminatory nature of Army practice in that it permitted the Army Personnel Board to direct a less than honorable discharge (undesirable discharge) as to enlisted personnel, but not as to officers.[238]

44. The fact that Peress was relieved from active duty under the involuntary release program, resulting in the automatic termination of his commission, thus precluding subsequent Army action.[239]

45. Either failure of G–2, First Army, during the course of the Peress investigation, to examine DD form 390, or, if such form were in fact examined, failure to include the results of such examination in the investigative report.

46. Failure to include DD form 390 in official files which would come to the attention of those Army officers responsible for actions leading to his ultimate honorable discharge.[240]

47. Failure of General Weible to direct that Peress' honorable discharge be held in abeyance pending determination as to whether any additional information was in the possession of the Senate Permanent Subcommittee on Investigations, as suggested by Senator McCarthy's letter of February 1, 1954.

48. Failure of John Adams to suggest to General Weible that the honorable discharge be so held in abeyance or on his own responsibility to initiate appropriate action which would accomplish this end, after receipt of Senator McCarthy's letter of February 1, 1954.

Recommendations

The subcommittee makes the following recommendations:

I. That the Department of the Army establish procedures within the Army Personnel Board which will not only insure that each member thereof approve the Board's recommendation as prepared by the recorder but also that the G–1 interpretation of the Board's recommendation is in consonance with the intent of the individual Board members. In this respect, the subcommittee specifically recommends:

1. That an adequate record system be maintained whereby the intent of each Board member will be clearly revealed in every case; and

2. That each Board member review and approve the Board's final recommendation as prepared by the recorder prior to forwarding to G–1 for implementation.

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[238] This discrimination eliminated (sec. V, SR 600–220–1, June 18, 1954).
[239] Appendix No. 3, procedural change No. 2, Department of the Army.
[240] Appendix No. 3, procedural change No. 5, Department of the Army.

II. That sufficient personnel be assigned to the Army Personnel Board to insure a thorough and careful consideration of all cases presented to it.

III. That the Army take appropriate steps to insure that officers assigned to the Army Personnel Board are qualified in personnel and security matters and are familiar with applicable regulations and procedures.

IV. That the Secretary of the Army cause a study to be made of the procedures and policies governing the operation of the Office of the Inspector General and that corrective action indicated thereby be taken to improve the efficiency of that office.

V. That the Army undertake not only to adequately staff G–2 offices in the field and at headquarters in Washington but also to assign thereto personnel properly qualified for intelligence work from the standpoint of both training and experience.

VI. That the practice of forwarding G–2 investigative reports from one field command to another through G–2, Washington, be discontinued. It is recommended that copies of such reports be sent directly to the command in the field, thus precluding unnecessary delay in its being apprised as to matters of interest pertaining to its command. At the same time copies of these reports should be sent to G–2, Washington.

VII. That G–2 investigative personnel be required to familiarize themselves with all forms relating to security; that as a matter of course all such forms be examined during a security investigation; and that all pertinent information revealed therein be included in investigative reports.

VIII. That the Department of the Army require G–2 officers in the field to advise commanding officers immediately of derogatory security information relating to personnel under their command. In this respect it is recommended that existing regulations which provide that intelligence reports remain in intelligence channels until a specific command is required to take action be amended accordingly.

IX. That G–2 conduct appropriate active investigation and surveillance of personnel still on active duty who have been determined to be security risks or concerning whom there is sufficient evidence of subversion or disloyalty.

The position of Senator Strom Thurmond of South Carolina and Senator Thomas E. Martin of Iowa is as follows:

"Not being a member of the Senate Permanent Subcommittee on Investigations, I did not sit in on the hearings and executive sessions in which the above report was prepared. Under these circumstances I have taken no part in the preparation and submission of the report."

Senator George H. Bender, a member of the Senate Permanent Subcommittee on Investigations, submitted the following as his individual views:

"I am compelled to state additional views to this report of the subcommittee. It is my purpose in so doing to present pertinent facts not included in the report as well as to set the record straight on certain aspects of the report which are not stated clearly.

"The purpose of the investigation into the Peress matter, as I understood, was to determine principally whether there existed any subversive collusion or Communist conspiracy in the Army that caused the induction, promotion, and reassignment from duty overseas of this dentist. A great hue and cry continued for nearly a year for the identity of the Communist conspirators and the 'silent Communist master of the Pentagon' who 'protected' and 'covered up' the affairs of this 'fifth-amendment Communist.' This campaign produced a by-product in the form of the question that became known nationally, 'Who Promoted Peress?'

"The subcommittee staff investigated this matter thoroughly. The Department of Defense furnished the greatest cooperation and assistance to this subcommittee by supplying personnel and records unstintingly.

"Yet, there is not one word in this subcommittee report to inform the American public that not one iota of evidence was revealed to indicate any subversion, collusion, or Communist conspiracy concerned with the handling by the military of the Peress matter. It seems to me that this was the important question the American people and the Congress desired answered. Assurance had been given publicly and to the chairman of this subcommittee in February and November of 1954 by the Secretary of the Army that this case was the result of 'mistakes' and 'errors' but not due to Communist influence. Nevertheless the campaign continued until this subcommittee took up the investigation and hearings on the Peress case.

"I think it is of paramount importance that this subcommittee should assure the people of this country that no Communist influence was found in the Army.

"I cannot agree with the conclusion of the subcommittee that the Secretary of the Army, or 'his superiors in the Department of Defense under whose direction he was acting,' performed a disservice to the American people, the Congress, and the subcommittee by not revealing for nearly 1 year the facts of Peress' military career.

"The record shows that by letter of February 16, 1954, from the Secretary of the Army to the then chairman of this subcommittee the Secretary said that the Peress matter indicated many 'mistakes.' The Secretary of Defense in testimony before the Senate Armed Services Committee on April 1, 1954, made a similar statement. The President of the United States in response to questions of the press on March 4, 1954, said that the Army made serious errors in the case and was correcting its procedures.

"In an effort to quash the persistent rumors that the Peress matter might be tinged with collusion the Secretary of the Army in November 1954 replied to a letter from Senator McCarthy and stated categorically that investigations by his Department and the Defense Department revealed no Communist influence or collusion in this case. He reiterated that many errors had been made and corrective action had been taken. He did not reveal the names of Army personnel involved. The Secretary of the Army had an abiding interest in protecting his personnel, as he testified. Nevertheless, the campaign of doubt continued and in so doing promoted the Communist cause. As a last resort the Army released a detailed chronology on January 7, 1955, in further effort to quell the furor. Even this action was labeled as not giving the complete story.

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"The report of the subcommittee details these efforts of the Secretary of the Army and high Government officers to acquaint the public and the Congress with the fact that this case was due to errors. The subcommittee report confirms these statements in its findings and presents a detailed list containing many minor personnel failures in support of the finding.

"These efforts do not amount in my estimation to a 'disservice' in any degree.

"One of the proposed conclusions is that the Department of the Army's list of 28 names was deceptive. Another is that the IG investigation in this case was inefficient. The testimony shows that the list was prepared by the IG; in fact, it was almost wholly on the inadequacy of the list that the IG investigation was evaluated by this committee. The two conclusions are thus exaggerating one failure, that of the IG. While the inaccuracy of the list thus prepared was misleading, it was not shown to be deceptive, which to me connotes misleading plus intent to mislead.

"A majority of the list of 'major errors' in the last conclusion concern personal failures of various individuals who handled this case. [This serves well to pad our conclusions but does nothing to enhance the quality of the report.] As long as actions are taken by human beings, there will be personal failures. If the purpose is to state that in this case there was an inordinate amount of human error, that could have been stated in one sentence, as were the possible inferences of this fact, such as the policy of assigning inexperienced officers to the intelligence field.

"The recommendations contained in the report could be strengthened considerably. As an example, recommendation No. 1 is concerned with corrections of office administration in the Army Personnel Board. It is of greater significance to me that the Army take corrective action in the quality of the decisions of the Board and the number and kind of officer personnel assigned as members.

"It is not conceivable that 3 officers can, with justice and equity, decide more than 700 cases on personnel and security actions in 1 month. It would seem appropriate to recommend that a greater number of officers be assigned to handle cases of this important nature.

"I think that the testimony of the Board personnel gives ample ground to recommend that individuals experienced and trained in personnel and security matters should be assigned to duty thereon.

"Since this case concerned personnel investigations it is believed that the recommendations of the Senate Committee Investigating the National Defense Program on this subject are most pertinent. They were published in Committee Report No. 440, part 6, 80th Congress, and apply particularly to the conclusions of this Subcommittee on the Inspector General's investigation."

COURSE OF ARMY ACTION ON P

CAMP KILMER	ADJUTANT GENERAL		SEPT. 9 AG FORWARDS PAPERS TO G-1 FOR DECISION
	G-1		SE G-1 STATI COMMEND MOTION, ME GRADE ALSO A FORW DETE
	INTELLIGENCE (G-2)		SEPT. 9 G-2 RECOMMENDS DISAPPROVAL OF PROMOTION REQUEST LT. COL
	DENTAL SURGEON		SEPT. 9 DENTAL SURGEON FURNISHES COPY OF REQUEST TO G-2 DENTAL SURGEON FORWARDS REQUEST TO AG FOR NECESSARY ACTION COL. A
	U.S. ARMY HOSPITAL		
	PERESS		SEPT. 9 PERESS REQUESTS DETERMINATION OF HIS ELIGIBILITY FOR GRADE OF MAJOR UNDER P.L. 84
FIRST ARMY	MEDICAL SECTION		
	RESERVE DIVISION		
	ADJUTANT GENERAL (AG)		
DEP'T. OF THE ARMY	THE ADJUTANT GENERAL (TAG)		
	PERSONNEL DIVISION		
	OFFICE OF SURGEON GENERAL (OSG)		
DEP'T. OF DEFENSE		AUG. 6 AD HOC COMMITTEE SUBMITS PROPOSED DOD DIRECTIVE, PART OF WHICH RELATED TO GRADE READJUSTMENT UNDER P.L. 84. PROPOSED DIRECTIVE PROVIDED FOR BOARD ACTION PRIOR TO EFFECTING GRADE READJUSTMENT	
		AUGUST	SEPTE

PERESS APPOINTMENT TO MAJOR

SEPT. 10
AG FORWARDS REQUEST TO FIRST ARMY FOR DETERMINATION

SEPT. 9
G-1 STATES IT IS NOT RECOMMENDATION FOR PROMOTION, MERELY REQUEST FOR GRADE DETERMINATION. ALSO ADVISE AG TO FORWARD FOR DETERMINATION

1ST LT. WM. L. VINETTE

LT. COL. CHESTER T. BROWN

COL. RALUFF P. LEVERICH

MAJ. HERBERT F. BORDEAU

NOV. 2
PERESS EXECUTES OATH OF OFFICE AS MAJOR

ENDORSEMENT OF PERESS REQUEST PREPARED BY CAPT VAN SICKLE OF MEDICAL SECTION AND CAPT KIRKLAND OF RESERVE DIVISION BET. SEPT. 10 & SEPT 23

SEPT 23
ENDORSEMENT OF PERESS REQUEST SIGNED BY ASST. AG AND FORWARDED TO TAG, DEPARTMENT OF ARMY

OCT. 16
REQUEST AGAIN RETURNED TO TAG WITH REMARK THAT RECORDS FORWARDED OCT. 10

OCT. 29
1ST ARMY FORWARDED LETTER OF APPOINTMENT TO C.O., U.S. ARMY HOSPITAL, KILMER, FOR NECESSARY ACTION

TAG

OCT. 2
TAG RETURNS REQUEST TO 1ST ARMY FOR INITIAL APPOINTMENT RECORDS

NO FURTHER ACTION TAKEN ON PERESS REQUEST DUE TO IMPENDING AUTOMATIC READJUSTMENT OF ALL MEDICAL RESERVE PERSONNEL IN ACCORDANCE WITH P.L. 84

OCT. 23
TAG ISSUED LETTER OF APPOINTMENT TO PERESS IN GRADE OF MAJOR. LETTER ADDRESSED THROUGH CMDING GENERAL, 1ST ARMY

LT. COL. EMERY HYDE

PERSONNEL DIVISION AUTHORIZED TAG TO REAPPOINT ACTIVE DUTY OFFICERS ON LIST PREPARED BY OSG

OCT. 14
LIST OF OFFICERS PREPARED BY OSG SENT TO TAG WITH RECOMMENDATION OF PROMOTION UNDER DOD 1205.1. PERESS ON LIST. IN PREPARING LIST OSG CONSIDERED PROFESSIONAL QUALIFICATIONS ONLY

MAJOR VERNON McKENZIE

OCT. 7
DOD DIRECTIVE 1205.1 ISSUED. REQUIREMENT OF BOARD ACTION PRIOR TO EFFECTING GRADE READJUSTMENT DELETED. SUCH REQUIREMENT INTERPRETED AS CONTRARY TO PROVISIONS OF PL 84

PTEMBER OCTOBER NOVEMBER

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COURSE OF ARMY SECURITY A

OCTOBER, 1952 TO

CAMP KILMER

- GENERAL ZWICKER
- INTELL. BRANCH (G-2)
- PERESS

FIRST ARMY

- RESERVE DIVISION
- MEDICAL SECTION
- INTELL. BRANCH (G-2)

DEPT. OF THE ARMY

- CHIEF OF STAFF (COS)
- OFFICE OF SURGEON GENERAL (OSG)
- INTELL. DIVISION (G-2)
- PERSONNEL (PERS)
- ADJUTANT GENERAL (AG)
- JUDGE ADVOCATE GENERAL (JAG)

OCT. 28 — PERESS EXECUTES FORMS 98 & 398 CLAIMING CONST. PRIVILEGE

FORMS REC'D 1ST ARMY RESERVE DIVISION BETWEEN OCT. 28 AND NOV. 14 — CAPT. CURTIS R. KIRKLAND

FORM 398 REC'D G-2, 1ST ARMY BETWEEN NOV. 20 & DEC. 1 — MAJ. WILLARD B. STAMBAUGH

PERESS ENTERS ON ACTIVE DUTY JAN. 1, 1953

RESERVE DIVISION

MEDICAL SECTION — CAPT. FLOYD VAN SICKLE, JR.

LT. COL. RONALD F. THOMAS

FEB. 5 — G-2, 1ST ARMY EFFECTS INVESTIGATION OF PERESS AND NOTIFIES RESERVE AND MEDICAL SEC

FEB. 12 — G-2 1ST ARMY NOTIFIES OSG, G-2 & AG, OF DEPT OF ARMY

OSG — MAR. 2

FEB. 27 — AG

G-2

APR. 15 — INVESTIGATION COMPLETED BY G-2, 1ST ARMY

APR. 28 — REP'T FORWARDED BY G-2 TO OSG, RECOMMENDING REMOVAL

APR. 30 — OSG FORWARDS FILE TO G-2, CONCURRING IN RECOMMENDATION OF DISMISSAL

G-2 — FILE REC'D MAY 2

LT. COL. S... GORDO...

G-2, KILMER ... FIRST LEARNS ... PERESS CAS... THROUGH COR... MUNICATION FR... FIRST ARMY ... DATED MAY ...

OCT NOV DEC JAN FEB MAR APR MA

1952

ARMY ACTION ON IRVING PERESS

MAY, 1953 TO FEBRUARY, 1954

LT. COL. SAMUEL GORDON

G-2, KILMER, FIRST LEARNS OF PERESS CASE THROUGH COMMUNICATION FROM FIRST ARMY DATED MAY 14

G-2

LT. COL. CHESTER T. BROWN

JUNE 15
FILE RETURNED BY G-2 KILMER TO G-2 IST ARMY WITH RECOMMENDATION THAT PERESS BE SEPARATED

LT. COL. CHESTER T. BALDWIN

AUG. 26
INTERROGATORY RETURNED BY G-2 KILMER TO G-2 IST ARMY

AUG. 25
PERESS CLAIMS CONSTITUTIONAL PRIVILEGE ON INTERROGATORY

OCT. 21
GEN. ZWICKER FIRST APPRISED OF SECURITY INFO RE PERESS, ZWICKER SENT LETTER TO GEN. BURRESS, C/S, IST ARMY, RECOMMENDING IMMEDIATE RAD

BRIG. GENERAL RALPH W. ZWICKER

JAN. 25
PERESS ACKNOWLEDGES RECEIPT OF NOTICE OF RAD ELECTING TO BE RELEASED MAR. 31, 1954

FEB. 1
PERESS REQUESTS DATE OF DISCHARGE BE CHANGED TO IMMEDIATE

FEB. 2
PERESS GIVEN HONORABLE DISCHARGE

NOV. 6
GEN. BURRESS, SENDS LETTER TO VICE-COS, BOLTE, RECOMMENDING ORDER FOR READJUSTMENT BE REVOKED & THAT PERESS BE SEPARATED FROM ARMY IMMEDIATELY

JAN. 21
LETTER FROM IST ARMY TO KILMER ORDERING COMPLIANCE WITH INSTRUCTIONS OF AG, WASH

MAY 25
G-2, IST ARMY FORWARDS FILE TO G-2 KILMER

G-2

LT. COL. RONALD I. TWIDALE

JULY 7
G-2, IST ARMY FORWARDS FILE TO G-2, WASHINGTON WITH RECOMMENDATION OF SEPARATION

G-2

AUG. 20
INTERROGATORY FORWARDED TO G-2 KILMER BY G-2, IST ARMY

SEPT. 2
G2, IST ARMY FORWARDS FILE WITH INTERROGATORY TO G-2 WASH., REITERATING REMOVAL RECOMMENDATION

GEN. CHARLES L. BOLTE

LT. GEN. WALTER L. WEIBLE

COS

DEC. 4
DEPUTY COS WEIBLE REQUESTS PERS. TO SEND PERTINENT PERESS MATERIAL AND DA POLICY AS TO SUCH CASES

DEC. 21
WEIBLE FORWARDS FILE TO JAG TO INSURE LEGALITY

DEC. 30
APPROVAL OF VICE COS

DEC. 30
CASE AGAIN REVIEWED BY WEIBLE & SENT TO VICE-COS WITH HIS APPROVAL

FEB. 1
CONFERENCE BETWEEN JOHN ADAM AND GEN. WEIBLE RE PERESS DISCHARGE

SEPT. 8
FILE WITH INTERROGATORY PASSED THROUGH OSG, WHO REPEATED REMOVAL RECOMMENDATION

SEPT. 10
G-2

MAJ. JAMES D. ANDERS

AUG. 10
INTERROGATORY FOR PERESS FORWARDED BY G-2, WASH. TO G-2, IST ARMY

G-2

MAY 21
G-2 RETURNED FILE TO G-2, IST ARMY TO FORWARD TO KILMER FOR REVIEW BY COMMANDING GENERAL

MAJ. JAMES D. ANDERS

G-2

FILE RECD MAY 2

OCT. 27
INTERROGATORY INCORPORATED IN PERESS FILE IN DISPOSITION SECTION G-2

OCT. 29
G-2 COMMENCED ACTION ON PREPARATION OF SUMMARY

NOV. 6
SUMMARY COMPLETED

NOV. 13
SPECIAL SUMMARY OF CASE PREPARED BY G-2 SENT TO PERS. AT LATTER'S REQUEST

NOV. 18
RECOMMENDATION OF G-2 FOR ELIMINATION OF PERESS SENT TO PERS.

LT. COL. GEORGE B. MOORE

NOV. 18
PERS. SENT CASE TO AG FOR REFERRAL TO ARMY PERS. BD.

NOV. 20
ARMY PERS. BD RECOMMENDED PERESS BE RELIEVED ACTIVE DUTY UNDER INVOLUNTARY RELEASE PROGRAM

NOV. 25
PERS. ADVISES COS OF BOARD DETERMINATION

LT. COL. GEO. B. MOORE AND LT. COL. LOWELL C. FORBES

AG

DEC. 12
PERS. DIV. FORWARDS PERESS INFO. TO GENERAL WEIBLE AT LATTERS REQUEST

DEC. 23
CONCURRENCE OF JAG & FILE RETURNED TO WEIBLE

JAN. 11
MEMO FROM PERS. TO AG INSTRUCTING AG TO TAKE ACTION TO RAD PERESS AND DISCHARGE FROM COMMISSION UNDER 4(B), P.L. 84

LT. COL. GEORGE B. MOORE

JAN. 18
LETTER FROM AG TO IST ARMY DIRECTING THEM TO RAD PERESS AND HONORABLY DISCHARGE AT EARLIEST DATE

CHO. R.C. McDANIEL

MAY JUN JUL AUG SEP OCT NOV DEC JAN FEB

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Appendix No. III

Major Changes in Army Procedures After the Peress Actions at Department of the Army Staff, Technical Service, and Army Headquarters Levels

DEPARTMENT OF THE ARMY

1. *Peress action.*—Peress was appointed in the United States Army Reserve prior to execution of DD form 98 (loyalty certificate) and DD form 398 (statement of personal history) pursuant to regulations then in effect, making an exception to the regulation for members of the medical profession only.

Procedural change.—Change of November 28, 1952 (DA message 378703), provided that all applicants for a commission must properly execute DD form 98 before any appointment will be tendered. (This change subsequently incorporated in regulations and is currently applicable; see par. 12, SR 600–220–1, June 18, 1954.) At present if an applicant qualifies DD form 98 he may be commissioned only upon specific approval of the Secretary of the Army. If the applicant fails or refuses to accomplish DD form 98 in its entirety he will not be commissioned (pars. 13b and 13c, SR 600–220–1, June 18, 1954, as changed).

2. *Peress action.*—Peress was relieved from active duty under the involuntary release program.

Procedural change.—The involuntary release program is not now in effect. All security cases are now processed under the military personnel security program, SR 600–220–1. Other methods of separating a security risk will not be resorted to unless it has been determined that the security program cannot be used.

3. *Peress action.*—The type of discharge given Peress was not considered by the persons determining the disposition of the Peress case.

Procedural change.—Paragraph 30c (7), SR 600–220–1, June 18, 1954, provides that when board of inquiry recommends a discharge from the Army it must also recommend the type of discharge.

4. *Peress action.*—Conflict between paragraph 6c (1), change 2, SR 600–220–1, March 20, 1951, and paragraph 2b, SR 605–310–1, November 4, 1953, as to whether members of the Reserve components under investigation will be ordered into active military service.

Procedural change.—This conflict has now been eliminated.

5. *Peress action.*—So far as can be determined DD form 390 (initial data for classification and commission in medical services for Medical, Dental, and Veterinary Corps) was not in the file being reviewed by the officials considering the most appropriate means of effectuating Peress' separation from the service.

Procedural change.—Current regulations require that the DD form 390 be placed immediately in the officer's official personnel file upon receipt so that it will necessarily be at hand for those reviewing his file.

6. *Peress action.*—Peress relieved from active duty under the reduction in force program and was discharged under special provisions of the doctors' draft law (honorable separation).

Procedural change.—Reserve officers determined to be security risks will be separated under conditions other than honorable (par. 2b (3), (g), SR 605–290–1, June 17, 1952, change 2, July 13, 1954). As a matter of policy, the taking of the fifth amendment by an individual queried about his Communist affiliations is sufficient to warrant the issuance of general discharge rather than an honorable, even if he is not determined to be a security risk.

OFFICE OF THE ADJUTANT GENERAL, DEPARTMENT OF THE ARMY

1. *Peress action.*—The Adjutant General was informed on February 12, 1953, of the initiation of the Peress investigation. However, on March 13, 1953, that Office transferred Peress conttrary to regulations. Also on October 24, 1953, the Adjutant General issued a letter of appointment in the grade of major to Peress.

Procedural change.—Personnel actions by The Adjutant General on persons under investigation have been tightened through designation of the Personnel Division as the final clearing agency for all personnel actions handled by The Adjutant General where such personnel actions are checked against complete files of DA form 268 (form used to flag files of persons under investigation).

INTELLIGENCE DIVISION (G–2), DEPARTMENT OF THE ARMY

1. *Peress action.*—Time lapses in handling papers pertaining to Peress:

Investigative file was received by G–2, Department of the Army, about May 3, 1953, from G–2, First Army, and not returned for recommendations of the commanding generals, First Army and Camp Kilmer, until May 21, 1953.

File was returned to G–2, Department of the Army, on or about July 16, 1953, and returned with interrogatory on August 10, 1953.

Interrogatory completed by Peress on August 25, 1953, and returned to G–2, Department of the Army, on September 10, 1953, but was not incorporated into Peress' file at G–2 until October 27, 1953.

Procedural changes.—Personnel strength increases have been authorized for G–2. A more streamlined system to handle such cases is now in effect (i. e., incoming correspondence is screened the day it arrives; certain priorities are established; The Adjutant General is contacted to determine the current location of any individual whose report contains any indication of disloyalty; and where sufficient evidence warrants removal, action is initiated immediately by the Disposition Section of G–2).

2. *Peress action.*—Although there was sufficient information in the Peress file to effect board action, case was delayed over a month by routine requirement of an interrogatory.

Procedural change.—Interrogatories are no longer required except in unusual cases.

OFFICE OF THE SURGEON GENERAL, DEPARTMENT OF THE ARMY

1. *Peress action.*—Although the Surgeon General's Office was informed of the initiation of the investigation on Peress about March 4, 1953, a board of officers in the Surgeon General's Office recommended the revocation of Peress' overseas orders and his reassignment on March 11, 1953, apparently without knowledge of the investigation.

Personnel in the Office of the Surgeon General who compiled the list of officers for grade readjustments had no knowledge of the derogatory information which had been developed on Peress. (Since the grade readjustments were mandatory, files containing information other than professional qualifications were not reviewed.)

Procedural change.—When derogatory information is received at the Surgeon General's Office or the Career Management Division of any other branch, the file of the person concerned is withdrawn from the regular files and is placed in a separate file to which only one officer has access. It is the duty of this officer to fully inform anyone desiring the file of the status of this person. The proper utilization of DA form 268 has been brought to the attention of all individuals who are responsible for personnel actions and these persons are required to acknowledge in writing that they have read and understand the regulations pertaining to the procedures for flagging and reporting information which warrants the suspension of personnel actions.

FIRST ARMY HEADQUARTERS

1. *Peress action.*—G–2, First Army received DD form 398 on December 1, 1952; yet investigation did not begin until February 5, 1953.

Procedural change.—Investigations are initiated promptly without waiting for the completed forms 98 and 398.

2. *Peress action.*—The Adjutant General, Reserve Forces Division, was informed of the initiation of the investigation on February 5, 1953, but failed to indicate in Peress' file that an investigation was in progress. This resulted in G–2, First Army, being unaware of Peress' reassignment to Camp Kilmer.

Procedural change.—Immediate flagging action is now specifically provided for in paragraphs 3 and 11 of SR 600–310–1, July 21, 1954.

3. *Peress action.*—After the review of the file by the commanding general, Camp Kilmer, the file was returned to First Army and remained there from about June 15, 1953, until July 7, 1953.

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Procedural change.—Reserve personnel files at First Army are centralized in the AG Reserve Forces Division, thus enabling a more rapid and accurate processing of papers. All incoming correspondence is promptly screened and a suspense file is established for priority items. Also a card file of all security cases is maintained and periodically reviewed by G–2, First Army.

4. *Peress action.*—The papers pertaining to Peress' initial appointment were not forwarded to the Adjutant General until September 16, 1953.

Procedural change.—The internal control and suspense system for applications has been overhauled in the Adjutant General's Office, Reserve Forces Division. Positive records showing the transmittal of records to the Adjutant General are now maintained.

5. *Peress action.*—On September 23, 1953, commanding general, First Army, recommended that action be taken to reappoint Peress in the grade of major without referring the matter to G–2.

Procedural change.—In May 1954 commanders recommending officers for promotion were directed to assure that no investigation is pending against an officer recommended for promotion.

General

The Adjutant General's letter of August 30, 1954, to major commanders requested continuing review of the investigative programs toward the view of accelerating investigation and reducing investigative caseloads.

The Adjutant General's letter of December 29, 1954, to major commanders establishing new and shorter time goals for various actions in security cases.

The Peress case is not likely to arise again because now an applicant for a commission must satisfactorily complete form 98 before he can be tendered an appointment. In addition, all officers and warrant officers of the Army Establishment (including those not on active duty) were required to execute loyalty certificates pursuant to DA circular 27 dated March 11, 1954. Furthermore, paragraph 14, SR 600–220–1, provides that every member of a Reserve component involuntarily entering on active duty immediately upon reporting to his first duty assignment must again fill out DD form 98. If the member of the Reserve component who has been involuntarily ordered to active duty returns DD form 98 prior to his reporting for active duty he will still be ordered to active duty even though he fails or refuses to accomplish the form in its entirety or makes entries thereon which provide reason for belief that his entry is not clearly consistent with the interest of national security. (This provision is necessary to prevent individuals from avoiding their duty to serve merely by qualifying their loyalty forms.)

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Calendar No. 864

84TH CONGRESS, 1st Session | SENATE | REPORT No. 857

AUTHORIZING THE TRANSMISSION THROUGH THE MAILS OF CERTAIN KEYS, IDENTIFICATION DEVICES, AND SMALL ARTICLES

JULY 14, 1955.—Ordered to be printed

Mr. JOHNSTON of South Carolina, from the Committee on Post Office and Civil Service, submitted the following

REPORT

[To accompany H. R. 4808]

The Committee on Post Office and Civil Service, to whom was referred the bill (H. R. 4808) to provide for transmission through the mails of keys and identification cards, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

STATEMENT

H. R. 4808 is designed to extend the coverage of the act of July 3, 1926, which establishes a postage rate of 5 cents for each 2 ounces or fraction thereof for the return by mail of hotel or steamship keys with tags bearing post office addresses and instructions for return to include other types of keys, identification devices of one kind or another and small articles such as billfolds and identification cards.

This legislation will enable the Post Office Department to provide a public service for which wide need has arisen since the present law was enacted in 1926. For example, the Disabled American Veterans organization has developed an excellent license plate identification system through which over 100,000 automobile keys were returned to their owners in 1 year.

Approval of the legislation is recommended by the Post Office Department. The Department states that enactment will create no administrative problems and add no additional cost to the postal service.

COMMITTEE AMENDMENT

H. R. 4808, as passed by the House, is amended by the addition of section 4 in order to make operative the provisions of section 4 (b)

of the Federal Employees Salary Increase Act of 1955 relating to the compensation of professional staff members of the standing committees of the House and the Senate.

HOUSE REPORT

Report No. 729 of the Post Office and Civil Service Committee of the House of Representatives is embodied as a part of this report.

* * * * * * *

H. R. 4808, as amended, will both clarify and bring up to date the existing law which establishes a postage rate of 5 cents for each 2 ounces or fraction thereof for the return by mail of hotel or steamship keys with tags bearing post office addresses and instructions for return.

This legislation will authorize transmission through the mails, under conditions spelled out in the bill, of keys, identification devices of various kinds, and other small articles (such as wallets, billfolds, and so forth) which the Postmaster General may designate. To qualify for such mailing, there must be a complete post office address, a request for return thereto, and a guaranty that postage will be paid on delivery. The present postage rate of 5 cents for each 2 ounces or fraction thereof on hotel and steamship keys will apply.

This legislation will provide a public service for which wide need has arisen since the present law on the mailing of hotel and steamship keys was enacted in 1926. The Post Office Department reports that a number of key identification systems have come into being in recent years. The Disabled American Veterans organization, for example, has developed an excellent identification system which is designed to meet the public need. This organization reports that under its system in 1954 over 13,000 automobile keys were returned to owners in Illinois, over 7,000 were returned in New Jersey, and comparable service was rendered in other States. But neither the DAV plan nor any other similar plan can operate with full effectiveness because the present law authorizes the return of only hotel and steamship keys. As a matter of expediency and public service, the Post Office Department does return certain other things where practicable, but the law contains no specific authority for the practice.

Approval of this legislation, as amended, is recommended by the Post Office Department, which reports that there will be no difficulty in administration and no additional cost to the Government.

The letter of the Postmaster General approving this legislation, which has the approval of the Bureau of the Budget, follows:

OFFICE OF THE POSTMASTER GENERAL,
Washington 25, D. C., April 13, 1955.

Hon. TOM MURRAY,
Chairman, Committee on Post Office and Civil Service,
House of Representatives.

DEAR MR. CHAIRMAN: Reference is made to your request for a report on H. R. 4808, a bill to provide for transmission through the mails of keys and identification cards.

The act of July 3, 1926 (39 U. S. C. 302), established a special rate of postage for returning hotel or steamship keys placed in the mails which bear a post office address, instructions directing return, and the guaranty to pay postage on delivery. This bill would extend this rate to all keys and identification cards upon the same conditions.

Since the law providing for return through the mails of hotel and steamship keys was enacted, various key identification systems have begun operation over the country. Keys attached to tags of these systems dropped in collection boxes are presently being sent to the addresses shown for disposition. Also, it is a common practice, particularly in larger cities, for pickpockets, thieves, and finders of wallets or identification cards to place them in collection boxes. As a matter of expediency and service to the public such items are restored to the owners if possible. Many Government agencies have adopted the practice of printing on identification cards and similar papers instructions to finders for placing in a mail collection box for return. These are also delivered to the address shown.

There is a definite demand for the service contemplated by this bill, and it does not appear that there would be any difficulty in administering such a law.

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It is believed that the enactment of this measure would have little, if any, effect upon postal expenditures.

In view of the foregoing, this Department favors the enactment of this legislation.

The Bureau of the Budget has advised that there would be no objection to the submission of this report to the committee.

Sincerely yours,

ARTHUR E. SUMMERFIELD,
Postmaster General.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics):

ACT OF JULY 3, 1926

(44 Stat. 890, ch. 778; 39 U. S. C., sec. 302)

AN ACT Fixing postage rates on hotel and steamship room keys and tags

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, [That on hotel and steamship room keys with metal or fiber tags securely attached thereto, there being indelibly stamped upon such tags explicit post office address and instructions directing that key and tag be returned to the hotel or steamship of their origin, postage shall be charged at the rate of 5 cents for each two ounces or fraction thereof if postage be collected on delivery.] *That keys or identification cards bearing an explicit post office address, and instructions directing that, if found, such keys or cards be returned to such address and guaranteeing payment of postage on delivery, the rate shall be 5 cents for each two ounces or fraction thereof.*

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Calendar No. 867

84TH CONGRESS, 1st Session | SENATE | REPORT No. 860

REVISING THE BOUNDARY BETWEEN THE SECOND AND FOURTH JUDICIAL DIVISIONS OF ALASKA

JULY 14, 1955.—Ordered to be printed

Mr. JACKSON, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[To accompany H. R. 65]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H. R. 65) to amend the act of August 23, 1954 (Public Law 632, 83d Cong.), having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

EXPLANATION OF THE BILL

The purpose of H. R. 65 is to clarify and make minor adjustments in a portion of the boundary line between the second and fourth judicial districts in the Territory of Alaska. Since the boundaries determine the location where litigation must be instituted, and where deeds and other documents affecting land titles must be recorded, it is important that the boundaries be clearly defined and easily discernible on the ground.

However, because of the location, there are at present virtually no persons permanently resident in the area, and little private property is affected.

Public Law 632, 83d Congress, redefined this line but further definition is desirable in that portion of the boundary line from the Brooks Range to the Beaufort Sea. The revised line would have the advantage of being fairly recognizable on the ground without extensive monumentation of most of its length from the Brooks Range to the Beaufort Sea.

REPORT OF EXECUTIVE AGENCY

The favorable report of the Department of the Interior to the House Interior Committee on H. R. 65 is as follows:

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington 25, D. C., April 29, 1955.

Hon. CLAIR ENGLE,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington 25, D. C.

MY DEAR MR. ENGLE: This is in response to your request for a report on H. R. 65, a bill to amend the act of August 23, 1954 (Public Law 632, 83d Cong.).

We recommend that H. R. 65 be enacted, if it is amended as suggested in this report.

The purpose of this bill is to make minor adjustments in a portion of the boundary line between the second and fourth judicial divisions of the Territory of Alaska. The judicial divisions of Alaska are the basic political subdivisions of the Territory, which is not divided into counties or townships. The boundaries of the judicial divisions determine the places where litigation must be instituted, control the recording of deeds and other documents affecting land titles, and serve numerous other public purposes. It is important, therefore, that these boundaries be clearly defined and be easily ascertainable on the ground.

The act of August 23, 1954 (68 Stat. 772), which H. R. 65 proposes to amend, redefined the boundary between the second and fourth judicial divisions in a manner that remedied several prior defects. With respect, however, to that portion of the boundary which extends from the Beaufort Sea to the Brooks Range, further changes appear desirable. For one thing, the present description states incorrectly the longitude of the point at which the boundary was intended to meet the main divide of the Brooks Range. For another, identification on the ground of this portion of the boundary as now defined, would require extensive surveys and physical monumentation.

The revisions proposed by H. R. 65 are designed to fit the northern sections of the boundary, so far as practicable, to the limited number of fixed and recognizable natural features to be found in the wide expanses of Arctic tundra traversed by these sections of the line and, at the Arctic shore, to tie it to triangulation points already precisely located. While to do this necessitates shifting some parts of the boundary several miles from either of its former locations, the areas involved in these shifts are far removed from any centers of population or activity. The new line would have the very real advantage of being fairly recognizable on the ground, without extensive monumentation, for most of its length from the Beaufort Sea to the Brooks Range.

The text of H. R. 65, however, contains a technical defect in that it would reenact section 1 of the 1954 act in a form that would omit the operative language of that section, namely, the language which amends the Alaska Civil Government Act of 1900 so as to substitute the new boundary for the original one. To remedy this omission the following amendment is recommended:

At page 1, lines 3 and 4, strike out the words "section 1 of the Act of August 23, 1954 (Public Law 632, Eighty-third Congress), is" and insert in lieu thereof the words "the third paragraph of section 4, chapter 1, title I, of the Act entitled 'An Act making further provision for a civil government for Alaska, and for other purposes', approved June 6, 1900 (31 Stat. 322; 48 U. S. C., 1952 ed., sec. 101), as amended by section 1 of the Act of August 23, 1954 (68 Stat. 772), is further".

If the foregoing amendment is adopted it would probably also be desirable to amend the title of the bill so that it would read somewhat as follows: "A bill to revise the boundary between the second and fourth judicial divisions of Alaska."

The Bureau of the Budget has advised that there is no objection to the submission of the views expressed in this report.

Sincerely yours,

ORME LEWIS,
Assistant Secretary of the Interior.

The Committee on Interior and Insular Affairs unanimously recommends favorable enactment of H. R. 65.

CHANGES IN EXISTING LAW

In compliance with the Cordon rule (subsec. (4) of rule XXIX of the Standing Rules of the Senate), changes in existing law made by the bill, H. R. 65, as reported, are shown as follows (existing law proposed

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to be repealed is enclosed in black brackets; additions to existing law are italicized; existing law in which no change is proposed is shown in roman):

SECTION 1 OF THE ACT OF AUGUST 23, 1954 (68 STAT. 772)

[Division numbered 2 shall consist of all territory, and islands, lying north and west of a line commencing in the Beaufort Sea at latitude seventy degrees thirty minutes north, longitude one hundred and forty-eight degrees west; thence in a southwesterly direction to latitude seventy degrees north, longitude one hundred and forty-eight degrees fifty minutes west; thence south along the meridian of one hundred and forty-eight degrees fifty minutes to latitude sixty-nine degrees thirty minutes; thence southerly to latitude sixty-nine degrees, longitude one hundred and forty-nine degrees; thence southwesterly to a point on the divide between the waters flowing to the Beaufort Sea and those flowing to the Bering Sea, approximate latitude sixty-eight degrees nine minutes, longitude one hundred and forty-eight degrees fifty-seven minutes; thence southwesterly along the divide between the waters of the Colville River, Kotzebue Sound, and the east end of Norton Sound on the north and west and the waters of the Yukon on the south to the one hundred and sixty-first meridian of west longitude, thence along said meridian to latitude sixty-one degrees thirty minutes; thence southwesterly to latitude sixty-one degrees, longitude one hundred and sixty-five degrees thirty minutes; thence south along the meridian of one hundred and sixty-five degrees thirty minutes to latitude fifty-eight degrees; thence west to the international boundary.]

Division numbered 2 shall consist of all territory and islands lying north and west of a line beginning at a point in the Beaufort Sea latitude 70 degrees 30 minutes north, longitude 147 degrees 30 minutes west; thence in a southwesterly direction to triangulation station "Delta" latitude 70 degrees 12 minutes 50 seconds north, longitude 147 degrees 43 minutes 18 seconds west on the north shore of the mainland about 5½ miles south southeast of the north tip of Foggy Island; thence due west about 5 miles to the east edge of the delta of the Sagavanirktok River, at approximate latitude 70 degrees 12 minutes 50 seconds north, longitude 147 degrees 56 minutes west; thence southwesterly along the southern and southeastern edge of the delta of the Sagavanirktok River to a point on the east bank of the river at approximate latitude 69 degrees 57 minutes north, longitude 148 degrees 39 minutes west; thence in a meandering line en a generally southerly direction along the eastern main bank of the flood plain of the Sagavanirktok River to the junction with the Ivishak River, approximate latitude 69 degrees 32 minutes north, longitude 148 degrees 29 minutes west; thence due west approximately 2 miles to the divide between the waters of the Sagavanirktok and the Tooliok Rivers approximate latitude 69 degrees 32 minutes north, longitude 148 degrees 35 minutes west; thence in a generally southwesterly direction following the height of land dividing the waters of the Tooliok, Kuparuk, and Itkillik Rivers from those of the Sagavanirktok River to a point on the Brooks Range divide between the headwaters of the Colville River on the north and west and the waters of the Yukon River on the south at approximate latitude 68 degrees 9 minutes north, longitude 149 degrees 51 minutes west; thence southwesterly along the divide between the waters of the Colville River, Kotzebue Sound, and the east end of Norton Sound on the north and west and the waters of the Yukon on the south to the one hundred and sixty-first meridian of west longitude, thence along said meridian to latitude 61 degrees 30 minutes; thence southwesterly to latitude 61 degrees, longitude 165 degrees 30 minutes; thence south along the meridian of 165 degrees 30 minutes to latitude 58 degrees; thence west to the international boundary.

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Calendar No. 868

84TH CONGRESS, 1st Session | SENATE | REPORT No. 861

AUTHORIZING THE TERRITORY OF HAWAII, THROUGH ITS DULY DESIGNATED OFFICERS AND BOARDS, TO NEGOTIATE A COMPROMISE AGREEMENT, EXCHANGE WITH, SELL, OR LEASE TO THE OWNERS OF CERTAIN SHORELANDS, CERTAIN TIDELANDS, BOTH IN THE TERRITORY OF HAWAII, AND TO MAKE COVENANTS WITH SUCH OWNERS, IN SETTLEMENT OF CERTAIN DAMAGE CLAIMS AND FOR A CONVEYANCE OF LITTORAL RIGHTS

JULY 14, 1955.—Ordered to be printed

Mr. JACKSON, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[To accompany H. R. 6331]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H. R. 6331) authorizing the Territory of Hawaii, through its duly designated officers and boards, to negotiate a compromise agreement, exchange with, sell, or lease to the owners of certain shorelands, certain tidelands, both in the Territory of Hawaii, and to make covenants with such owners, in settlement of certain damage claims and for a conveyance of littoral rights, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

EXPLANATION OF THE BILL

H. R. 6331 would authorize certain designated officials of the Territory of Hawaii to enter into agreements for the sale, exchange, or leasing of some 6½ acres of specifically described tidelands along and adjacent to Waikiki Beach in Honolulu. Title to these lands now is vested in the Territory itself, but certain provisions in the Organic Act of Hawaii (31 Stat. 141–159) as amended prohibit the Territory from taking the action this bill would authorize (see sec. 673 of title 48, U. S. C., 1952 edition).

The negotiations authorized would enable the Territory to acquire littoral rights from abutting property owners for construction of a new public recreation area and tourist attraction to be known as Crescent Beach. In the opinion of the United States Army engineers,

construction of this new area is necessary to prevent the continuing erosion of the sands of Waikiki Beach. Included in the contemplated development is a new luxury resort hotel to be built with private capital at an estimated cost of some $20 million.

The committee was informed by the popularly elected Delegate to Congress from Hawaii that this hotel is expected to bring an additional $10,800,000 in annual revenues into the Territory from tourism, create jobs for 1,100 persons, and provide added annual tax revenues of $1,240,000 for the Territory.

NO FEDERAL FUNDS NOR PROPERTY INVOLVED

Enactment of H. R. 6331 would not involve any expenditure of Federal funds, nor does it transfer or authorize transfer of any Federal property. The lands which are the subject of the proposed legislation originally were public property of the Republic of Hawaii and were ceded to the United States when Hawaii voluntarily became a part of the Union in 1898. These 6½ acres are a part of a tract of 496 acres of former Republic of Hawaii lands title to which was transferred to the Territory by President Calvin Coolidge in 1928 (Proclamation 1856; 45 Stat. 2974) under the authority conferred by the 56th and 61st Congresses (see 31. Stat. 141, 159, and 36 Stat. 443, 447).

Thus, H. R. 6331 would merely authorize the officials of the Territory of Hawaii to deal with Territorial property for the benefit of the people of Hawaii. It is necessary because of the restrictions in the Organic Act.

The Delegate from Hawaii submitted to the committee documentary evidence that all of the adjoining property owners that would be affected are in favor of the legislation. It was initiated by petition of the Territorial legislature, and has the approval of the Governor of Hawaii.

COMPETITIVE-BID PRINCIPLE NOT APPLICABLE

At the hearing and in executive session, the committee considered the question of authorizing disposition of the lands by negotiation rather than competitive bidding. The committee concludes that in this instance, since land exchanges and littoral rights as distinguished from conventional sales are involved, competitive bidding would not serve the purposes of the legislation. The exchange of particular tracts, the surrender of particular rights, and particular uses of specific areas, within the 6½ acres are essential if the contemplated development is to be carried out.

Therefore, in this special instance, the committee finds that a requirement by Congress that the Territory dispose of the designated area only by competitive bidding would not be in the public interest. The committee has received information from the Attorney General of Hawaii that there are statutory precedents for the type of negotiations contemplated in H. R. 6331 in order to exempt such negotiations from the above-mentioned provisions of the Organic Act.

An example is the act of August 7, 1946, chapter 787, 79th Congress, 2d session, exempting from these provisions exchanges made for the acquisition by the Territory of Hawaii of certain land on Hilo Island. Another example is the act of June 18, 1954, chapter 316, 83d Con-

gress, 2d session, authorizing an exchange of land with one Richard Smart at Waimea, South Kohala, T. H. Other exemptions for sales to particular classes of purchasers have been added to the Organic Act by amendment. See title 48 United States Code, section 673, as amended, and historical annotations thereunder.

MINERAL RIGHTS AND VALUE OF LANDS

No minerals are known to exist in the submerged lands of the Hawaiian Islands, which are of relatively recent volcanic origin. However, title to the minerals as well as the surface is in the Territory, and the committee did not deem it advisable to impose any restriction respecting reservation of minerals to the Territory. Thus, the matter is discretionary with the Hawaiian officials.

As to the value of the lands in question, a copy of the official report of the appraisers representing the Territory and the property owners was submitted to the committee and is on file with it. According to this report, the value of the lands the exchange, lease, or sale of which is authorized by H. R. 6331 is $450,000 and the value of the littoral rights to be acquired by the Territory is approximately the same.

REPORTS OF EXECUTIVE AGENCIES

The reports of the executive agencies concerned, including Interior, Justice, and Defense, to the House Interior Committee on H. R. 6331, are set forth in full as follows:

UNITED STATES DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D. C., June 14, 1955.

Hon. CLAIR ENGLE,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, D. C.

MY DEAR MR. ENGLE: Reference is made to your requests of May 20 and June 3, for the views of this Department on H. R. 6331, a bill authorizing the Territory of Hawaii, through its duly designated officers and boards, to negotiate a compromise agreement, exchange with, sell, or lease to the owners of certain shorelands, certain tidelands, both in the Territory of Hawaii and to make covenants with such owners, in settlement of certain damage claims and for a conveyance of littoral rights.

We recommend that H. R. 6331 be enacted.

It is necessary, as part of the establishment and development of Waikiki Beach, to construct a beach, known as Crescent Beach, at the northern end of Waikiki Beach. The construction of Crescent Beach will require the Territory of Hawaii to acquire the littoral rights attaching to the properties in the immediate area. The Territorial government has been conducting negotiations with the shoreline owners in the Crescent Beach area with a view to acquiring the necessary rights. In the course of those negotiations, the shoreline owners made claims for damages resulting from acts or omissions of the Territory in connection with previous development of the immediate and adjoining area. As a result of such negotiations, an understanding was reached on the general terms of a settlement. The settlement would provide that the shoreline owners would obtain title to the tidelands area lying between their present seaward boundaries and the rear boundary of the new beach; they would release all of their littoral rights to the Territory and the shoreline owners would not have any rights to accretions; the shoreline owners would release all damage claims against the Territory resulting from the previous development of the area; and the Territory would undertake construction and maintenance of the beach as a public beach and would not limit the access of the shoreline owners thereto

Congressional action on this matter is required because there is a substantial doubt that there is authority in the Territorial government to make a conveyance of the tidelands to the adjoining owners. H. R. 6331 would specifically grant to

designated officials of the Territory authority to make the proposed conveyances, provided a settlement arrangement is reached with the affected landowners along the general lines outlined above. It is our view that the construction of Crescent Beach as a continuation of the Waikiki Beach development is desirable as an important feature in the program to increase recreational facilities in the Territory for the attraction of tourist trade. Enactment of H. R. 6331 would remove an obstacle to beach development and, therefore, favorable action on the bill is recommended.

The Bureau of the Budget has advised that there is no objection to the submission of this report to your committee.

Sincerely yours,

FRED G. AANDAHL,
Assistant Secretary of the Interior.

DEPARTMENT OF JUSTICE,
June 10, 1955.

Hon. CLAIR ENGLE,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, D. C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice on the bill (H. R. 6331) authorizing the Territory of Hawaii, through its duly designated officers and boards, to negotiate a compromise agreement, exchange with, sell, or lease to the owners of certain shorelands, certain tidelands, both in the the Territory of Hawaii, and to make covenants with such owners, in settlement of certain damage claims and for a conveyance of littoral rights.

The bill (H. R. 6331) would grant authorization to the commissioner of public lands of the Territory of Hawaii, subject to concurrence of the board of harbor commissioners and approval of the Territorial Governor and two-thirds of the board of public lands, to make a "compromise agreement with" or to sell or exchange, or to lease for a period of 55 years, tidelands described in section 2 of the bill to owners of shorelands covered by certain land court applications and other owners of lands abutting on any part of such tidelands.

Section 2 of the bill delineates the property involved, and section 3 authorizes the commissioner, with the concurrence of others, to agree with the owners to create and maintain a public beach, appropriations permitting, and to permit access to the beach.

Whether the bill should be enacted involves a question of policy on which the Department of Justice prefers to make no recommendation.

The Bureau of the Budget has advised that there is no objection to the submission of this report.

Sincerely,

WILLIAM P. ROGERS,
Deputy Attorney General.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

Inasmuch as the committee has requested that the report be expedited, it is submitted without a determination by the Bureau of the Budget as to whether or not it conforms to the program of the President. As soon as such advice is received it will be forwarded to your committee.

Sincerely yours,

(Signed) ROBERT T. STEVENS,
Secretary of the Army.

The Committee on Interior and Insular Affairs unanimously recommends enactment of this legislation.

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Calendar No. 869

84TH CONGRESS, 1st Session | SENATE | REPORT No. 862

PHILIPPINE TRADE AGREEMENT REVISION ACT OF 1955

JULY 14, 1955.—Ordered to be printed

Mr. BYRD, from the Committee on Finance, submitted the following

REPORT

[To accompany H. R. 6059]

The Committee on Finance, to whom was referred the bill (H. R. 6059) relating to revisions of the Executive agreement concerning trade and related matters entered into by the President of the United States and the President of the Philippines on July 4, 1946, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

In view of the fact that the House report (H. Rept. No. 934) contains a full discussion of H. R. 6059, and the fact that the Finance Committee has suggested no amendments to the House bill, there is incorporated herein for the information of the Senate the substantive portions of the House report, which includes the text of the 1946 Philippine agreement showing proposed changes, as follows:

PURPOSE

H. R. 6059 would authorize the President of the United States, any time before January 1, 1956, to enter into an agreement with the President of the Republic of the Philippines for the purpose of amending the United States-Philippine agreement of July 4, 1946, as amended, on trade and related matters.

GENERAL STATEMENT

A. PRINCIPAL FEATURES OF H. R. 6059

(1) *Preferential tariff schedules.*—Probably the most significant change in United States-Philippine trade relations that would occur under H. R. 6059 is that the Philippine tariff preferences on United States articles would disappear more rapidly, and the United States preferences on Philippine articles would disappear less rapidly than under the 1946 agreement.

(2) *Elimination of the Philippine exchange tax.*—The Republic of the Philippines at the present time imposes a tax of 17 percent on all sales of foreign exchange. Under the agreement authorized by H. R. 6059 this exchange tax would be eliminated and a special temporary import tax would be substituted therefor which would not exceed 17 percent and which would be gradually eliminated by January 1, 1966.

(3) *Revision of quota provisions.*—The bill would revise the quota provisions of the agreement to eliminate quotas that have proved unnecessary; to provide for the slower disappearance of duty-free tariff quotas on scrap and filler tobacco, cigars, coconut oil, and buttons of pearl or shell; and to provide for the deletion of provisions specifying how United States quotas on Philippine products are to be allocated among producers in the Philippines.

(4) *Treaty merchant status.*—The present agreement has no provision currently effective relating to the reciprocal entry of traders and investors. Under the revised agreement, as contemplated in H. R. 6059, the Philippines would be obliged to take the necessary legislative and executive actions to enter into an agreement with the United States for the reciprocal entry of traders and investors as authorized by Public Law 419 of the 83d Congress.

(5) *Reciprocal national treatment for business activities.*—Under H. R. 6059 the 1946 agreement would be amended to provide a clear statement of rights of citizens of the United States to engage in business activities in the Philippines on the same basis as Philippine nationals. These rights would be in addition to those guaranteed in

the parity article of the 1946 agreement relating to the exploitation of natural resources and the operation of public utilities. This revision would also provide for the extension of like treatment to Philippine citizens to engage in business activities in the United States.

B. BACKGROUND OF THE LEGISLATION

The relationship between the United States and the Republic of the Philippines is unique. Until 1946, the United States had never had the experience of granting independence to a part of its territory. There was no precedent to indicate exactly how the problems of the new relationship that was to exist between the United States and the Republic of the Philippines could best be met. In this situation the Congress of the United States enacted the Philippine Trade Act of 1946 (Public Law 371, 79th Cong.; 60 Stat. 143) authorizing the President of the United States to enter into an agreement. The resulting agreement was signed at Manila on July 4, 1946, and established the basic economic relationships between the two countries at the time the Philippines became an independent nation.

Since that time, the people of the Philippines have worked patriotically and diligently in seeking their rightful place among the nations of the free world. In the intervening years the Republic of the Philippines has progressed from a nation that had sustained the full impact of the economic and physical ravages of World War II to a nation that has become a citadel of democratic strength in the Far East.

On March 7, 1953, the President of the Philippines requested revision of the 1946 agreement as being vital to the economic stability of his country and to the permanent trade relations between the United States and the Republic of the Philippines. In his reply, dated March 16, 1953, the President of the United States expressed the willingness of our Government to give prompt and sympathetic consideration to any specific proposal for revision of the agreement that the Philippines might advance.

To provide the necessary time for the negotiation of a possible revision with the Philippine Government while the reciprocal free-trade arrangement provided for in the 1946 agreement was still in effect, Public Law 474 of the 83d Congress was passed, authorizing the extension on a reciprocal basis of the period of free entry of Philippine articles into the United States from July 3, 1954, to December 31, 1955, and such period of continued free trade was proclaimed by the President on July 10, 1954.

Negotiations for the purpose of revision of the 1946 trade agreement began in Washington on September 20, 1954, between a United States delegation and a Philippine economic mission appointed for that purpose. On December 15, 1954, the chairmen of the two delegations signed a final act of negotiations pursuant to which each delegation agreed to recommend the proposed revisions contained therein to their respective governments for consideration.

The President of the United States, in a message to the Congress of May 5, 1955, recommended the adoption of the proposed amendments to the 1946 agreement. In his message to the Congress the President stated in part as follows:

> * * * I believe that the revision, as proposed in the final act of negotiations, would be beneficial to both the United States and the Philippines and would contribute materially to the improvement of the already friendly political and

economic relations between them. I earnestly urge, therefore, that appropriate legislation be enacted at this session of the Congress to permit revision of the 1946 agreement in accordance with the recommendations contained in the final act.

C. DISCUSSION OF PROPOSED CHANGES IN THE 1946 AGREEMENT

Section 202 of your committee's bill, as amended, sets forth the exact form and text of the revised agreement which would be authorized under H. R. 6059. The significant changes in the 1946 agreement are as follows:

(1) *Tariff preferences.*—Under the terms of the original 1946 agreement, reciprocal free trade (subject to quota restrictions on a few United States imports of Philippine articles) would have continued between the two countries from July 4, 1946, through July 3, 1954. From July 4, 1954, to December 31, 1954, 5 percent of the lowest Philippine rates of duty applicable to imports of like articles from any other country would have applied to imports of United States articles; and 5 percent of the lowest United States rates of duty applicable to imports of like articles from any other country would have applied to imports of most Philippine articles. The rates of duty applicable to imports of each country from the other in each calendar year thereafter were to be increased by an additional 5 percent of the lowest duties applicable to imports of like articles from any other source.

Under this schedule as originally provided in the 1946 agreement, the cumulative totals were to reach 100 percent of the base rates on January 1, 1973, at which level they were to remain through July 3, 1974, which is the expiration date of the agreement.

Public Law 474 of the 83d Congress provided for the elimination on a reciprocal basis of the first two steps in the statutory formula for the progressive increases in tariff rates with the result that the duty-free period has been extended through December 31, 1955. This action was taken at the request of the Philippine Government. Therefore, under present law, Philippine articles would first become dutiable on January 1, 1956, at 15 percent of the lowest United States duty with cumulative 5-percent increments annually thereafter.

The revised tariff preferences that would be provided under your committee's bill would result in decelerating the schedule for increasing United States rates of duty on imports of most Philippine articles in the years immediately ahead and would be accelerated in later years, as compared with the schedule provided in the 1946 agreement. These changes are set forth in the following table:

TABLE I

Period	Percentages of tariff rates that would apply—		
	Under existing legislation to United States imports of Philippine articles [1] and to Philippine imports of United States articles	Under H. R. 6059—	
		To United States imports of Philippine articles [1]	To Philippine imports of United States articles
	Percent	*Percent*	*Percent*
1956	15	5	25
1957	20	5	25
1958	25	5	25
1959	30	10	50
1960	35	10	50
1961	40	10	50
1962	45	20	75
1963	50	20	75
1964	55	20	75
1965	60	40	90
1966	65	40	90
1967	70	40	90
1968	75	60	90
1969	80	60	90
1970	85	60	90
1971	90	80	90
1972	95	80	90
1973	100	80	90
1974 (Jan. 1-July 3)	100	100	100

[1] The United States rates here referred to are the rates applicable to imports of like articles from the foreign country that is entitled to the lowest rates. On many articles Cuba is entitled to preferential tariff treatment by the United States, and on some articles imported from the Philippines the preferential rates applicable to like articles from Cuba are the rates to which the percentages shown above relate.

As indicated in the foregoing table, under the 1946 agreement, as amended, 55 percent of the tariff preferences accorded by both the United States and the Philippines would be eliminated by 1964, whereas, under H. R. 6059, 20 percent of the tariff preferences accorded by the United States on imports of Philippine articles and 75 percent of the tariff preferences accorded by the Philippines on imports of United States articles would be eliminated by that year. Under H. R. 6059 the elimination of the final 80 percent of the tariff preferences accorded imports of Philippine articles into the United States would occur in the last 9½ years of the transition period which is to end July 3, 1974.

(2) *Import quotas.*—Under the 1946 agreement, declining duty-free import quotas are provided with respect to Philippine cigars, filler and scrap tobacco, coconut oil, and pearl or shell buttons. In addition, United States imports of Philippine sugar, cordage, and rice are subject not only to absolute quotas but also will be subject to progressively increasing import duties beginning January 1, 1956. The proposed changes authorized by your committee's bill would provide for the elimination of United States absolute quotas upon imports of Philippine rice, tobacco, cigars, coconut oil, and buttons of pearl or shell. Under the bill the provisions in the present agreement which specify how the United States quotas on Philippine products are to be allocated among Philippine producers would be deleted.

Under H. R. 6059 the schedule of declining duty-free quotas applicable to United States imports of Philippine cigars, filler and scrap tobacco, coconut oil, and buttons of pearl or shell follows the same pattern as the schedule of increases in United States duties applicable to other United States imports from the Philippines. As a result, the

quantity of each of the aforementioned four categories of Philippine articles that are entitled to duty-free entry is reduced by the same progression as is set forth in the third column of the preceding table I. The base quantities of these articles on which the annual duty-free quotas are calculated are the same under H. R. 6059 as in the 1946 agreement; viz:

TABLE II.—*Schedule of tariff quotas*

Item	Classes of articles	Amounts
A	Cigars (exclusive of cigarettes, cheroots of all kinds, and paper cigars and cigarettes, including wrappers).	200,000,000 cigars.
B	Scrap tobacco, and stemmed and unstemmed filler tobacco described in par. 602, of the Tariff Act of 1930 of the United States, as amended, which is set forth as annex III to this agreement.	6,500,000 pounds.
C	Coconut oil	200,000 long tons.
D	Buttons of pearl or shell	850,000 gross.

The requirement in the 1946 agreement, that any Philippine article entered or withdrawn from warehouse in excess of the duty-free quota mentioned above shall be subject to 100 percent of the applicable United States duty, would be continued under H. R. 6059.

The more liberal duty-free quotas under H. R. 6059 would be of no immediate significance except for buttons of pearl or shell. Your committee has been advised that in recent years imports of none of the other three categories of articles subject to declining duty-free quotas have amounted to more than a small part of the respective amounts entitled to duty-free entry.

H. R. 6059 would retain the present absolute quotas on sugar and cordage. The quota on rice would be eliminated. All other articles which are subject to absolute quotas under the 1946 agreement would become subject to tariff quotas as described above. Your committee is advised that a quota on rice is no longer necessary in view of the fact that the Philippines has become a rice importer.

The 1946 agreement granted only to the United States the specific authority to apply discriminatory quantitative restrictions on imports not already subject to them under the agreement. However, the agreement did not specifically forbid the application of such quota restrictions by the Philippines. H. R. 6059 would make the authority to apply such restrictions reciprocal but in order to establish any new restrictions of this sort it is required (1) that the imports of an article must be such as to cause or threaten serious injury to domestic producers of the article, or (2) that the imposition of a quota is necessary to forestall the imminent threat of or to stop a serious decline in monetary reserves.

The revision authorized by H. R. 6059 would provide for prior notification and the right of consultation regarding the establishment of discriminatory import quotas, and would afford a basis for consultation in the case of nondiscriminatory import and export restrictions and prohibitions to the extent that the two parties find such consultation practicable.

(3) *Substitution of a temporary import tax for exchange tax.*—At the present time the Philippines imposes a 17 percent tax on all sales of foreign exchange. This exchange tax is applicable to transfers of earnings and capital as well as to payments for imports. The exchange tax was established with the express consent of the President

of the United States pursuant to the provisions of the 1946 agreement which forbids the Philippines to change the value of its currency or to impose controls on transfers of funds to the United States without such consent. The proposed revision of the agreement as embodied in H. R. 6059 would discontinue this requirement of consent. However, the Republic of the Philippines has become a member of the International Monetary Fund and as such is subject to the restrictions on the imposition of exchange controls which the articles of the fund prescribe.

In lieu of the present tax on the sale of foreign exchange, H. R. 6059 would provide for the Philippines to impose a temporary special import tax on a nondiscriminatory basis on any article or product imported or brought into the Philippines. It is provided further that the initial tax shall be at a rate no higher than the present rate of the foreign exchange tax and that the tax shall be progressively reduced at a rate no less rapid than 10 percent per annum. This schedule of elimination of the import levy may be varied only to the extent that the Philippine Government may determine, after consultation with the United States Government, that a higher rate is necessary to maintain the level of revenues from the importation of United States goods for a particular year at the same level of revenues derived from the exchange tax on such goods during the calendar year 1955.

The immediate removal of the exchange tax on "invisibles" would be a stimulant to the investment of American capital in the Philippines.

(4) *Parity provision.*—The parity provision of the 1946 agreement requires the Philippines to accord to United States citizens and United States business enterprises the same rights and privileges that it extends to Philippine interests in the exploitation of natural resources and the operation of public utilities. The 1946 agreement granted no corresponding rights or privileges to Philippine nationals and Philippine enterprises in the United States. Your committee's bill would amend the existing agreement to provide for the mutualization of national treatment in the development of natural resources and the operation of public utilities. Under H. R. 6059 the rights of United States interests in all other fields of business activity would be clarified and extended and each country would extend national treatment to the citizens of the other and to their business enterprises, subject to reservations on account of provisions in the constitutions and laws of the various States of the United States. The agreement, if amended, as provided in H. R. 6059, would also require the Philippines to enact legislation designed to facilitate the entry and residence of United States traders and investors.

(5) *Miscellaneous amendments to the 1946 agreement.*—In addition to the changes to the 1946 agreement which have been discussed above, your committee's bill would also provide for mutual national security exceptions to the trade agreement such as the United States has customarily included in international agreements to which it is a party; the elimination of the prohibition against imposition of export taxes; provision for consultation at least 3 years before expiration of the agreement to consider problems anticipated in connection with its termination; and clarification of the definition of United States and Philippine articles for preferential tariff purposes to include articles of each country imported via third countries.

(6) *Effective period of the agreement.*—The amendments contemplated by your committee's bill to the 1946 United States-Philippine

agreement would enter into force on January 1, 1956, and would remain in effect through July 3, 1974, unless terminated earlier. The agreement could be terminated by either the United States or the Philippines at any time, upon not less than 5 years' written notice. If the President of either country should determine and proclaim that the other country had nullified or impaired any right or obligation provided for in the agreement, then the agreement could be terminated upon not less than 6 months' written notice.

D. YOUR COMMITTEE'S AMENDMENTS

For the most part, the amendments to H. R. 6059 which have been approved by your committee are intended to make it clear that the effect of your committee's bill is merely to amend the 1946 agreement so that the period of the agreement will be a continuing one beginning on July 4, 1946, and terminating on July 3, 1974. This clarification eliminates any doubt that the Philippine constitutional amendment required by the parity provision of the 1946 agreement will continue in force.

In addition to these amendments your committee has also adopted an amendment which would modify the present prohibition against entering into a trade agreement with the Philippines under section 350, as amended, of the Tariff Act of 1930, so that the prohibition would be applicable only to a trade agreement which is inconsistent with the revised agreement.

E. NEED FOR THE LEGISLATION

Your committee has given careful consideration to the problem of United States-Philippine trade relations in public hearings and in executive session. The proposed changes to the 1946 agreement embodied in H. R. 6059 have been thoroughly evaluated by the Committee on Ways and Means in the light of what is in the best interest of the United States. Your committee is of the opinion that the enactment of H. R. 6059 is desirable.

It is acknowledged that the concessions which would be granted by the United States under this bill cannot be justified on a purely economic basis. Your committee is of the opinion that there are considerations that transcend the economic factors which justify the adoption of these important amendments to the Philippine Trade Act of 1946.

The historic friendship of the people of the United States and the people of the Republic of the Philippines is a powerful influence for peace and stability in the world today. The Philippine Republic has assumed a position of leadership in the Far East as a spokesman for the nations of the free world. Your committee was advised that, even though the proposed revision of the 1946 agreement had not yet been approved, the negotiation of the proposed modifications has already strengthened the friendly and cooperative ties between the two nations. It is not to be forgotten that in recent months the Philippine Government has repeatedly taken a courageous stand with the United States in the establishment and support of American policies in the Far East against further Communist encroachment.

With respect to the economic considerations involved in H. R. 6059, it should be remembered that, just as in our early history, the Philippines as an underdeveloped country is more dependent upon tariff revenues for the support of its Government than are more industrialized nations.

It is expected that the proposed changes to the United States-Philippine agreement that would be effected under H. R. 6059 would aid the Philippines in creating a more balanced economy.

It is your committee's view that this agreement must be considered not by itself but in the larger context of conditions in the Far East.

It is important to our own national interest that the economic position of the Philippine Republic be strengthened. For these reasons, your committee believes that the proposed changes to the existing agreement, relatively more advantageous to the Philippines as they may be, are justified and should be supported.

The Departments of State, Treasury, Defense, Agriculture, Commerce, and Interior support the enactment of this legislation.

Analysis of Changes by Agreement Articles

The significant revisions of the 1946 agreement authorized in H. R. 6059 are set forth in the following paragraphs in the sequence of the articles and protocol of the negotiated revised agreement:

Article I

The original schedule for the reciprocal payment of customs duties at reduced rates, specified payment for articles of both countries at 15 percent of the lowest rate applicable to any other country in 1956, and an additional 5 percent each year until 100 percent of such rate was reached at the beginning of 1973. The revision provides for 2 schedules, 1 for each country, and the rates are substantially modified. Philippine articles entering the United States under the revised schedule would pay 5 percent of the lowest United States duties applicable to any other country from 1956 to 1958, 10 percent from 1959 to 1961, 20 percent from 1962 to 1964, 40 percent from 1965 to 1967, 60 percent from 1968 to 1970, 80 percent from 1971 to 1973, and 100 percent thereafter to the end of the agreement. United States articles entering the Philippines under the revised schedule would pay 25 percent of Philippine duties applicable to any other country from 1956 to 1958, 50 percent from 1959 to 1961, 75 percent from 1962 to 1964, 90 percent from 1965 to 1973, and 100 percent thereafter to the end of the agreement.

The Philippines undertakes to eliminate the present 17 percent tax on sales of foreign exchange and to replace this tax with a temporary special import levy, at a rate no higher than the exchange tax, exempt from the preferences applicable to United States articles, which levy will be progressively reduced at the rate of not less than 10 percent per year, beginning in the calendar year 1957. Provisions are included for the suspension of this schedule of reduction in the event Philippine revenues in any calendar year from tariffs on United States articles and from the temporary special import levy on United States articles fall below the proceeds of the foreign exchange tax on payments for United States articles in the calendar year 1955.

Article II

The revisions of this article eliminate the present absolute quotas on the entry of rice, Philippine cigars, scrap and filler tobacco, coconut oil, and buttons into the United States. The existing absolute quotas on sugar and cordage are continued unchanged, but with a provision that the quota on sugar shall be without prejudice to any increases which the United States Congress might allocate to the Philippines in the future. A slower schedule is provided for the progressive decrease of the duty-free quotas on cigars, scrap and filler tobacco, coconut oil, and buttons. The provisions specifying how the allocation in the Philippines of United States quotas on Philippine products is to be made is eliminated.

The recommendation for removal of the absolute quotas on cigars, tobacco, coconut oil and buttons is based on the fact that these discriminatory quotas are unnecessary for the purpose of protecting domestic industry since the United States retains the right under article III to impose such quotas where there is injury or threat to a domestic industry. The new provision regarding sugar implies no commitment regarding a possible increase in the United States sugar quota for the Philippines.

Article III

Article III of the revision concerns the use by each country of quantitative export and import restrictions affecting the other.

The sole content of article III before revision was a unilateral provision limiting the right of the United States to apply new discriminatory import quotas on Philippine articles, except under specified conditions. The Philippines requested the elimination of this article so that there would be equality in this field. Equality has been achieved through making all provisions of the revised article reciprocal.

The first paragraph lays down a general rule of most-favored-nation treatment in the application of restrictions and prohibitions on imports and exports.

The second paragraph permits the application of discriminatory import quotas in addition to those provided for in Article II, where serious injury to domestic producers results from the tariff preferences provided in the agreement or where there is danger of depletion of monetary reserves. It prescribes the extent to which such discriminatory import quotas for protective reasons may be established, it provides protection for the importation of goods in minimum commercial quantities, and it requires the discontinuance of discriminatory quotas when the conditions justifying their establishment no longer exist.

The third paragraph requires prior notification and the right of consultation regarding the establishment of discriminatory import quotas, and lays a basis for consultation in the case of nondiscriminatory import and export restrictions and prohibitions to the extent that the two parties find such consultation practicable.

Article IV

The only revision in this article is the deletion of the paragraph prohibiting the imposition of an export tax by either country upon products which it exports to the other.

Article V

Article V of the agreement before revision was a currency and exchange provision requiring the Philippines to get the agreement of the President of the United States before it could change the value of its currency or impose controls on the transfer of funds to the United States. This provision is eliminated entirely.

Revised article V is a commitment by the Philippines to take the necessary legislative and executive actions, prior to or at the time of the entry into effect of the present revision of the trade agreement, to enter into an agreement with the United States for the reciprocal entry of traders and investors, as authorized by Public Law 419 of the 83d Congress.

At the present time there is no agreement between the two countries on this subject since the immigration provisions of Article VI of the Trade Agreement have expired.

Article VI

Article VI in the agreement before revision related to immigration, and its provisions have expired. This subject is now treated in article V of the revised agreement. Article VII of the agreement before revision, relating to "parity," becomes article VI in the revised agreement.

The parity article, before revision, granted to American citizens in the Philippines equal rights with Filipinos in the development of natural resources and the operation of public utilities in the Philippines and in it the Philippines undertook to and did amend its Constitution to give effect to this commitment.

The revision gives to Filipinos the same rights in the United States with respect to the development of natural resources and the operation of public utilities that Americans enjoy in the Philippines, subject to the reservations, also mutual, which the United States must make concerning existing Federal legislation and the constitutional rights of the States. Mutualization with respect to the rights of the States is accomplished by making parity rights in the Philippines henceforth applicable only to citizens of States which grant the same rights to Filipinos. The rights of American citizens who were engaged in the development of natural resources or the operation of public utilities in the Philippines prior to entry into effect of this revision are protected, regardless of their citizenship in States which do not grant similar rights to Filipinos, except that such rights may be withdrawn from them if the States of which they are citizens withdraw similar rights from Filipinos who had been previously enjoying them.

Article VII

Article VII of the revised agreement is a new provision for reciprocal national treatment for the citizens and enterprises of each with respect to engaging in business activities, subject to the reservation of the constitutions and laws of the States of the United States and the mutualization of these reservations.

The 1946 agreement before revision contained no clear statement of rights of Americans to engage in business enterprises in the Philippines other than those referred to in the parity article, but there was a unilateral penalty provision (par. 4 of art. X), whereby the President of the United States could suspend the agreement in whole or in part if the Philippines discriminated in any way against Americans or

American companies. The revision obtains for Americans clear and positive assurances regarding their rights to engage in business in the Philippines.

Article VIII

The substance of article VIII is transferred to article IX of the revised agreement and a new provision is inserted as article VIII containing security exceptions for which there was previously no provision. These exceptions are of the usual type included in international agreements to which the United States is a party.

Article IX

This article as revised contains the amended substance of article VIII of the unrevised text. The provisions for the allocation of United States quotas on Philippine products is eliminated, as in article II. Also eliminated are the provisions relating to Philippine cooperation with the Philippine War Damage Commission, since that body no longer exists. There remain only the general provisions with respect to implementation by the two parties of the agreement.

Article X

The subject of article IX is transferred to article X and revised to provide for a consultation not later than July 1, 1971, on joint problems that may arise as a result or in anticipation of the termination of the agreement. This revision insures that at a reasonable length of time before the expiration of the agreement the two parties will meet to consider what the situation will be after expiration.

Article XI

The substance of article X of the agreement before revision, with respect to termination, is transferred unchanged to article XI. The provisions relating to entry into effect of the original 1946 agreement, having long since been executed, are eliminated, and a new paragraph providing for entry into force of the revisions on January 1, 1956, has been added. The provision for nondiscriminatory treatment of American citizens and firms is deleted since its purpose has been put into positive reciprocal undertakings in article VII.

Protocol

The only change in the protocol, which contains little except definitions of terms, is the addition of a statement to the definitions of "United States article" and "Philippine article" to the effect that these articles do not lose their status as such by reason of being imported from a country other than the Philippines or the United States, or from an insular possession of the United States, or by way of or via such a country or insular possession.

Your committee urges the enactment of H. R. 6059, as amended.

Text of 1946 Philippine Agreement Showing Proposed Changes

For the information of the Members of the House, changes in the 1946 Philippine Trade Agreement are shown as follows (existing provisions to be omitted are enclosed in black brackets, new matter is printed in italic, existing provisions in which no change is proposed are shown in roman):

AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF THE PHILIPPINES CONCERNING TRADE AND RELATED MATTERS DURING A TRANSITIONAL PERIOD FOLLOWING THE INSTITUTION OF PHILIPPINE INDEPENDENCE, *SIGNED AT MANILA ON JULY 4, 1946, AS REVISED*

Provisions of existing Agreement in which no change is proposed are shown in Roman; existing provisions proposed to be omitted are enclosed in brackets; new matter is shown in italics

The President of the United States of America and the President *of the Republic* of the Philippines, [recalling] *mindful of* the close economic ties between the people of the United States and the people of the Philippines during many years of intimate political relations, [mindful of the great physical destruction and social disturbances suffered by the Philippines as a result of their valiant support of the cause of the United Nations in the war against Japan,] and desiring to enter into an agreement [accepting on the part of each country the provisions of Title II and Title III (except Part 1) of the Philippine Trade Act of 1946 of the United States of America,] *in keeping with their long friendship, which will be mutually beneficial to the two peoples and will strengthen the economy of the Philippines so as to enable that Republic to contribute more effectively to the peace and prosperity of the free world*, have agreed to the following Articles:

ARTICLE I

[1. During the period from the date of the entry into force of this Agreement to July 3, 1954, both dates inclusive, United States articles as defined in Subparagraph (e) of Paragraph 1 of the Protocol to this Agreement entered, or withdrawn from warehouse, in the Philippines for consumption, and Philippine articles as defined in Subparagraph (f) of Paragraph 1 of the Protocol entered, or withdrawn from warehouse, in the United States for consumption, shall be admitted into the Philippines and the United States, respectively, free of ordinary customs duty.

[2. The ordinary customs duty to be collected on United States articles as defined in Subparagraph (e) of Paragraph 1 of the Protocol, which during the following portions of the period from July 4, 1954, to July 3, 1974, both dates inclusive, are entered, or withdrawn from warehouse, in the Philippines for consumption, and on Philippine articles as defined in Subparagraph (f) of Paragraph 1 of the Protocol, other than those specified in Items D to G, both inclusive, of the Schedule to Article II, which during such portions of such period are entered, or withdrawn from warehouse, in the United States for consumption, shall be determined by applying the following percentages of the Philippine duty as defined in Subparagraph (h) of Paragraph 1 of the Protocol, and of the United States duty as defined in Subparagraph (g) of Paragraph 1 of the Protocol, respectively:

[(a) During the period from July 4, 1954, to December 31, 1954, both dates inclusive, five per centum.

[(b) During the calendar year 1955, ten per centum.

[(c) During each calendar year after the calendar year 1955 until and including the calendar year 1972, a percentage equal to the percentage for the preceding calendar year increased by five percentum of the Philippine duty and the United States duty, respectively, as so defined.

[(d) During the period from January 1, 1973, to July 3, 1974, both dates inclusive, one hundred per centum.]

1. The ordinary customs duty to be collected on United States articles as defined in Subparagraph (e) of Paragraph 1 of the Protocol, which during the following portions of the period from January 1, 1956, to July 3, 1974, both dates inclusive, are entered, or withdrawn from warehouse, in the Philippines for consumption, shall be determined by applying the following percentages of the Philippine duty as defined in Subparagraph (h) of Paragraph 1 of the Protocol:

(a) During the period from January 1, 1956, to December 31, 1958, both dates inclusive, twenty-five per centum.

(b) During the period from January 1, 1959, to December 31, 1961, both dates inclusive, fifty per centum.

(c) During the period from January 1, 1962, to December 31, 1964, both dates inclusive, seventy-five per centum.

(d) During the period from January 1, 1965, to December 31, 1973, both dates inclusive, ninety per centum.

(e) During the period from January 1, 1974, to July 3, 1974, both dates inclusive, one hundred per centum.

2. The ordinary customs duty to be collected on Philippine articles as defined in Subparagraph (f) of Paragraph 1 of the Protocol, other than those specified in the Schedule to Paragraph 2 of Article II, which during such portions of such period are entered, or withdrawn from warehouse, in the United States for consumption, shall be determined by applying the following percentages of the United States duty as defined in Subparagraph (g) of Paragraph 1 of the Protocol:

(a) During the period from January 1, 1956, to December 31, 1958, both dates inclusive, five per centum.

(b) During the period from January 1, 1959, to December 31, 1961, both dates inclusive, ten per centum.

(c) During the period from January 1, 1962, to December 31, 1964, both dates inclusive, twenty per centum.

(d) During the period from January 1, 1965, to December 31, 1967, both dates inclusive, forty per centum.

(e) During the period from January 1, 1968, to December 31, 1970, both dates inclusive, sixty per centum.

(f) During the period from January 1, 1971, to December 31, 1973, both dates inclusive, eighty per centum.

(g) During the period from January 1, 1974, to July 3, 1974, both dates inclusive, one hundred per centum.

Note: The following table shows the tariff preferences under the existing agreement and under the proposed amended agreement for Philippine articles (other than certain tobacco products, coconut oil, and buttons of pearl or shell) imported into the United States and for United States articles imported into the Philippines.

Table of Tariff Preferences Under Original Agreement and Under Proposed Amended Agreement

Period	Original Agreement	Proposed Amended Agreement	
	Percentage of duty to be collected by both the United States and the Philippines—	Percentage of duty—	
		to be collected by United States on Philippine articles—	to be collected by Philippines on United States articles—
January 2, 1947–July 3, 1954	Free	----------	----------
July 4, 1954–December 31, 1954	5 percent	----------	----------
Calendar year 1955	10 percent	----------	----------
Calendar year 1956	15 percent	5 percent	25 percent.
Calendar year 1957	20 percent	5 percent	25 percent.
Calendar year 1958	25 percent	5 percent	25 percent.
Calendar year 1959	30 percent	10 percent	50 percent.
Calendar year 1960	35 percent	10 percent	50 percent.
Calendar year 1961	40 percent	10 percent	50 percent.
Calendar year 1962	45 percent	20 percent	75 percent.
Calendar year 1963	50 percent	20 percent	75 percent.
Calendar year 1964	55 percent	20 percent	75 percent.
Calendar year 1965	60 percent	40 percent	90 percent.
Calendar year 1966	65 percent	40 percent	90 percent.
Calendar year 1967	70 percent	40 percent	90 percent.
Calendar year 1968	75 percent	60 percent	90 percent.
Calendar year 1969	80 percent	60 percent	90 percent.
Calendar year 1970	85 percent	60 percent	90 percent.
Calendar year 1971	90 percent	80 percent	90 percent.
Calendar year 1972	95 percent	80 percent	90 percent.
Calendar year 1973	100 percent	80 percent	90 percent.
January 1, 1974–July 3, 1974	100 percent	100 percent	100 percent.

3. Customs duties on United States articles, and on Philippine articles, other than ordinary customs duties, shall be determined without regard to the provisions of Paragraph 1 and 2 of this Article, but shall be subject to the provisions of Paragraph 4 of this Article.

4. With respect to United States articles imported into the Philippines, and with respect to Philippine articles imported into the United States, no duty on or in connection with importation shall be collected or paid in an amount in excess of the duty imposed with respect to like articles which are the product of any other foreign country, or collected or paid in any amount if the duty is not imposed with respect to such like articles. As used in this Paragraph, the term "duty" includes taxes, fees, charges, or exactions, imposed on or in connection with [importation;] *importation*, but does not include internal taxes or ordinary customs duties.

5. With respect to products of the United States which do not come within the definition of United States articles, imported into the Philippines, no duty on or in connection with importation shall be collected or paid in an amount in excess of the duty imposed with respect to like articles which are the product of any other foreign country, or collected or paid in any amount if the duty is not imposed with respect to such like articles which are the product of any other foreign country. As used in this Paragraph the term "duty" includes taxes, fees, charges, or exactions, imposed on or in connection with [importation;] *importation*, but does not include internal taxes.

6. With respect to products of the Philippines, which do not come within the definition of Philippine articles, imported into the United States, no duty on or in connection with importation shall be collected or paid in an amount in excess of the duty imposed with respect to like articles which are the product of any other foreign country (except Cuba), or collected or paid in any amount if the duty is not imposed with respect to such like articles which are the product of any other foreign country (except Cuba). As used in this Paragraph the term "duty" includes taxes, fees, charges, or exactions, imposed on or in connection with [importation;] *importation*, does not include internal taxes.

7. Notwithstanding the provisions of Paragraph 1 of this Article, the Philippines shall impose a temporary special import tax, in lieu of the present tax on the sale of foreign exchange, on any article or product imported or brought into the Philippines, irrespective of source; provided that such special levy is applied in a non-discriminatory manner pursuant to Paragraphs 4 and 5 of this Article, that the initial tax is at a rate no higher than the present rate of the foreign exchange tax, and that the tax shall be progressively reduced at a rate no less rapid than that specified in the following Schedule. If, as a result of applying this Schedule, the total revenue from Philippine customs duties and from the special import tax on goods coming from the United States is less in any calendar year than the proceeds from the exchange tax on such goods during the calendar year 1955, no reduction need be made in the special import tax for the next succeeding calendar year, and, if necessary to restore revenues collected on the importation of United States goods to the level of the exchange tax on such goods in calendar year 1955, the Philippines may increase the rate for such succeeding calendar year to any previous level provided for in this Schedule which is considered to be necessary to restore such revenues to the amount collected from the exchange tax on United States goods in calendar year 1955. Rates for the special import levy in subsequent years shall be fixed in accordance with the schedules specified in this Article, except as the Philippine Government may determine that higher rates are necessary to maintain the above-mentioned level of revenues from the importation of United States goods. In this event, such rate shall be determined by the Philippine Government, after consultation with the United States Government, at a level of the Schedule calculated to cover any anticipated deficiency arising from the operation of this provision.

SCHEDULE FOR REDUCING SPECIAL IMPORT TAX

(*a*) *After December 31, 1956, ninety percentum.*
(*b*) *After December 31, 1957, eighty per centum.*
(*c*) *After December 31, 1958, seventy per centum.*
(*d*) *After December 31, 1959, sixty per centum.*
(*e*) *After December 31, 1960, fifty per centum.*
(*f*) *After December 31, 1961, forty per centum.*
(*g*) *After December 31, 1962, thirty per centum.*
(*h*) *After December 31, 1963, twenty per centum.*
(*i*) *After December 31, 1964, ten per centum.*
(*j*) *On and after January 1, 1966, nil.*

ARTICLE II

1. During the period from January 1, [1946] *1956*, to December 31, 1973, both dates inclusive, the total amount of the articles falling within one of the classes specified in Items A and A–1 [, and C to G, both inclusive,] of the Schedule to this [Article] *Paragraph*, which are Philippine articles as defined in Subparagraph (f) of Paragraph 1 of the Protocol, and which, in any calendar year, may be entered, or withdrawn from warehouse, in the United States for consumption, shall not exceed the amounts specified in such Schedule as to each class of articles. During the period from January 1, [1946] *1956*, to December 31, 1973, both dates inclusive, the total amount of the articles falling within the class specified in Item B of the Schedule to this [Article] *Paragraph* which are the product of the Philippines, and which, in any calendar year, may be entered, or withdrawn from warehouse, in the United States for consumption, shall not exceed the amount specified in such Schedule as to such class of articles. During the period from January 1, 1974, to July 3, 1974, both dates inclusive, the total amounts referred to in the preceding sentences of this Paragraph shall not exceed one-half of the amount specified in such Schedule with respect to each class of articles, respectively. *The establishment herein of the limitations on the amounts of Philippine raw and refined sugar that may be entered, or withdrawn from warehouse, in the United States for consumption, shall be without prejudice to any increases which the Congress of the United States might allocate to the Philippines in the future. The following Schedule to Paragraph 1 shall constitute an integral part thereof:*

Schedule of Absolute Quotas[1]

Item	*Classes of Articles*	*Amounts*
A	*Sugars*	*952,000 short tons*
A–1	*of which not to exceed*	*56,000 short tons*
	may be refined sugars, meaning "direct-consumption sugar" as defined in Section 101 of the Sugar Act of [1937] *1948, as amended, of the United States which is set forth in part as Annex I to this Agreement.*	
B	*Cordage, including yarns, twines (including binding twine described in Paragraph 1622 of the Tariff Act of 1930 of the United States, as amended, which is set forth as Annex II to this Agreement), cords cordage, rope, and cable, tarred or untarred, wholly or in chief value of manila (abaca) or other hard fiber.*	*6,000,000 lbs.*

2. Philippine articles as defined in Subparagraph (f) of Paragraph 1 of the Protocol falling within one of the classes specified in [Items D to G, both inclusive, of the Schedule to this Article, which] *the items included in the Schedule to this Paragraph, which*, during the following portions of the period from January 1, [1946] *1956*, to December 31, 1973, both dates inclusive, are entered, or withdrawn from warehouse, in the United States for consumption, shall be free of ordinary customs duty, in quantities determined by applying the following percentages to the amounts specified in such Schedule as to each such class of articles:

[(a) During each of the calendar years 1946 to 1954, one hundred per centum.

[1] This schedule does not constitute a substantive change of the agreement. It contains items A, A–1, and B in the schedule to Article II of the existing agreement.

[(b) During the calendar year 1955, ninety-five per centum.]

(a) During each of the calendar years 1956 to 1958, inclusive, ninety-five per centum.

[(c) During each calendar year after the calendar year 1955 until and including the calendar year 1973, a percentage equal to the percentage for the preceding calendar year decreased by five per centum of such specified amounts.]

(b) During each of the calendar years 1959 to 1961, inclusive, ninety per centum.

(c) During each of the calendar years 1962 to 1964, inclusive, eighty per centum.

(d) During each of the calendar years 1965 to 1967, inclusive, sixty per centum.

(e) During each of the calendar years 1968 to 1970, inclusive, forty per centum.

(f) During each of the calendar years 1971 to 1973, inclusive, twenty per centum.

(g) On and after January 1, 1974, nil.

The following Schedule to Paragraph 2 shall constitute an integral part thereof:

Schedule of Tariff Quotas[1]

Item	*Classes of Articles*	*Amounts*
A	*Cigars (exclusive of cigarettes, cheroots of all kinds, and paper cigars and cigarettes, including wrappers).*	*200,000,000 cigars*
B	*Scrap tobacco, and stemmed and unstemmed filler tobacco described in Paragraph 602 of the Tariff Act of 1930 of the United States, as amended, which is set forth as Annex III to this Agreement.*	*6,500,000 lbs.*
C	*Coconut oil*	*200,000 long tons*
D	*Buttons of pearl or shell*	*850,000 gross*

The quantities shown in the Schedule to this Paragraph represent base quantities for the purposes of computing the tariff-free quota and are not absolute quotas. Any such Philippine article so entered, or withdrawn from warehouse, in excess of the duty-free quota provided in this Paragraph shall be subject to one hundred per centum of the United States duty as defined in Subparagraph (g) of Paragraph 1 of the Protocol.

[3. Each of the quotas provided for in Paragraphs 1 and 2 of this Article for articles falling within one of the classes specified in Items A–1 and B, and D to G, each inclusive, of the Schedule to this Article shall be allocated annually by the Philippines to the manufacturers in the Philippines in the calendar year 1940 of products of a class for which such quota is established, and whose products of such class were exported to the United States during such calendar year, or their successors in interest, proportionately on the basis of the amount of the products of such class produced by each such manufacturer (or in the case of such successor in interest, the amount of the products of such class produced by his predecessor in interest) which was exported to the United States during the following period: (*a*) In the case of Items A–1 and D to G, each inclusive, the calendar year 1940,

[1] This schedule contains items D, E, F, and G in the schedule to article II of the existing agreement. Under the existing agreement these items are subject to absolute quotas in the amounts stated; under the proposed amended agreement these items would be subject only to tariff quotas beginning in the amount stated.

and (*b*) in the case of Item B, the twelve months immediately preceding the inauguration of the Commonwealth of the Philippines. The quota provided for in Paragraph 1 of this Article for unrefined sugars specified in Item A of such Schedule, including that required to manufacture the refined sugars specified in Item A–1 of the Schedule, shall be allocated annually by the Philippines to the sugar-producing mills and plantation owners in the Philippines in the calendar year 1940 whose sugars were exported to the United States during such calendar year, or their successors in interest, proportionately on the basis of their average annual production (or in the case of such a successor in interest, the average annual production of his predecessor in interest) for the calendar years 1931, 1932, and 1933, and the amount of sugars which may be so exported shall be allocated in each year between each mill and the plantation owners on the basis of the proportion of sugars to which each mill and the plantation owners are respectively entitled, in accordance with any milling agreements between them, or any extension, modification, or renewal thereof.

[4. The holder of any allotment under law existing on April 29, 1946, including his successor in interest, and the holder of any allotment under any of the quotas which are provided for in Paragraphs 1 and 2 of this Article the allocation of which is provided for in Paragraph 3 of this Article, may transfer or assign all or any amount of such allotment on such terms as may be agreeable to the parties in interest. If, after the first nine months of any calendar year, the holder of any allotment, for that year, under any of the quotas referred to in the preceding sentence, is or will be unable for any reason to export to the United States all of his allotment, in time to fulfill the quota for that year, that amount of such allotment which it is established by sufficient evidence cannot be so exported during the remainder of the calendar year may be apportioned by the Philippine Government to other holders of allotments under the same quota, or in such other manner as will insure the fulfillment of the quota for that year: *Provided*, That no transfer or assignment or reallocation under the provisions of this Paragraph shall diminish the allotment to which the holder may be entitled in any subsequent calendar year.

[The following Schedule to Article II shall constitute an integral part thereof:

[Items	Classes of Articles	Amounts
A	Sugars	952,000 short tons,
A-1	of which not to exceed---------- may be refined sugars, meaning 'direct-consumption sugar' as defined in Section 101 of the Sugar Act of 1937 of the United States which is set forth in part as Annex I to this Agreement.	56,000 short tons
B	Cordage, including yarns, twines (including binding twine described in Paragraph 1622 of the Tariff Act of 1930 of the United States, as amended, which is set forth as Annex II to this Agreement), cords, cordage, rope, and cable, tarred or untarred, wholly or in chief value of manila (abaca) or other hard fiber.	6,000,000 lbs.
C	Rice, including rice meal, flour, polish, and bran.	1,040,000 lbs.
D	Cigars (exclusive of cigarettes, cheroots of all kinds, and paper cigars and cigarettes, including wrappers).	200,000,000 cigars
E	Scrap tobacco, and stemmed and unstemmed filler tobacco described in Paragraph 602 of the Tariff Act of 1930 of the United States, as amended, which is set forth as Annex III to this Agreement.	6,500,000 lbs.
F	Coconut oil.	200,000 long tons
G	Buttons of pearl or shell.	850,000 gross]

ARTICLE III

[1. With respect to quotas on Philippine articles as defined in Subparagraph (*f*) of Paragraph 1 of the Protocol (other than the quotas provided for in Paragraphs 1 and 2 of Article II, and other than quotas established in conjunction with quantitative limitations, applicable to products of all foreign countries, on imports of like articles), the United States will not establish any such quota for any period before January 1, 1948, and for any part of the period from January 1, 1948, to July 3, 1974, both dates inclusive, it will establish such a quota only if—

[(*a*) The President of the United States, after investigation, finds and proclaims that such Philippine articles are coming, or are likely to come, into substantial competition with like articles the product of the United States; and

[(*b*) The quota for any Philippine article as so defined for any twelve-month period is not less than the amount determined by the President as the total amount of Philippine articles of such class which (during the twelve months ended on the last day of the month preceding the month in which occurred the date proclaimed by the President as the date of the beginning of the investigation) was entered, or withdrawn from warehouse, in the United States for consumption; or, if the quota is established for any period other than a twelve-month period, is not less than a proportionate amount.

Any quota established pursuant to this Paragraph shall not continue in effect after the President, following investigation, finds and proclaims that the conditions which gave rise to the establishment of such quota no longer exist.

[2. If the President of the United States finds that the allocation of any quota established pursuant to Paragraph 1 of this Article is necessary to make the application of the quota just and reasonable between the United States and the Philippines, the United States shall have the right to provide the basis for the allocation of such quota, and

if the United States exercises such right, the Philippines will promptly put and keep in effect, on the basis provided by the United States, the allocation of such quota.]

1. Except as otherwise provided in Article II or in Paragraph 2 of this Article, neither country shall impose restrictions or prohibitions on the importation of any article of the other country, or on the exportation of any article to the territories of the other country, unless the importation of the like article of, or the exportation of the like article to, all third countries is similarly restricted or prohibited. If either country imposes quantitative restrictions on the importation or exportation of any article in which the other country has an important interest and if it makes allotments to any third country, it shall afford such other country a share proportionate to the amount of the article, by quantity or value, supplied by or to it during a previous representative period, due consideration being given to any special factors affecting the trade in such article.

2. (a) Notwithstanding the provisions of Paragraph 1 of this Article, with respect to quotas on United States articles as defined in Subparagraph (e) of Paragraph 1 of the Protocol or with respect to quotas on Philippine articles as defined in Subparagraph (f) of Paragraph 1 of the Protocol (other than the articles for which quotas are provided in Paragraph 1 of Article II) a quota may be established only if—

(1) The President of the country desiring to impose the quota, after investigation, finds and proclaims that, as the result of preferential treatment accorded pursuant to this Agreement, any article of the other country is being imported in such increased quantities and under such conditions as to cause or threaten serious injury to domestic producers of like or directly competitive articles; or

(2) The President of the country desiring to impose the quota finds that such action is necessary to forestall the imminent threat of, or to stop, a serious decline in its monetary reserves, or, in the event its monetary reserves are very low, to achieve a reasonable rate of increase in its reserves.

(b) Any quota imposed for any twelve-month period under (a) (1) above for the purpose of protecting domestic industry shall not be less than the amount determined by the President of the importing country as the total amount of the articles of such class which, during the twelve months preceding entry into effect of the quota, was entered, or withdrawn from warehouse, for consumption, after deduction of the amount by which he finds domestic production can be increased during the twelve-month period of the quota; or if the quota is established for any period other than a twelve-month period, it shall not be less than a proportionate amount.

(c) Each Party agrees not to apply restrictions so as to prevent unreasonably the importation of any description of goods in minimum commercial quantities, the exclusion of which would seriously impair regular channels of trade, or restrictions which would prevent the importation of commercial samples, or prevent compliance with patent, trademark, copyright, or similar procedures.

(d) Any quota established pursuant to this Paragraph shall not continue in effect longer than necessary to achieve the purposes for its

imposition, at which time the President of the country imposing the quota, following investigation, shall find and proclaim that the conditions which gave rise to the establishment of such quota no longer exist.

3. Either country taking action pursuant to the provisions of this Article shall give notice to the other country as far in advance as may be practicable, and shall afford it an opportunity to consult in respect of the proposed action. It is understood that this right of consultation does not imply that the consent of the other country to the establishment of the quota is needed in order for the quota to be put into effect.

ARTICLE IV

1. With respect to articles which are products of the United States coming into the Philippines, or with respect to articles manufactured in the Philippines wholly or in part from such articles, no internal tax shall be—

(a) Collected or paid in an amount in excess of the internal tax imposed with respect to like articles which are the product of the Philippines, or collected or paid in any amount if the internal tax is not imposed with respect to such like articles;

(b) Collected or paid in an amount in excess of the internal tax imposed with respect to like articles which are the product of any other foreign country, or collected or paid in any amount if the internal tax is not imposed with respect to such like articles.

Where an internal tax is imposed with respect to an article which is the product of a foreign country to compensate for an internal tax imposed (1) with respect to a like article which is the product of the Philippines, or (2) with respect to materials used in the production of a like article which is the product of the Philippines, if the amount of the internal tax which is collected and paid with respect to the article which is the product of the United States is not in excess of that permitted by Paragraph 1 (b) of Article IV such collection and payment shall not be regarded as in violation of the first sentence of this Paragraph.

2. With respect to articles which are products of the Philippines coming into the United States, or with respect to articles manufactured in the United States wholly or in part from such articles, no internal tax shall be—

(a) Collected or paid in an amount in excess of the internal tax imposed with respect to like articles which are the product of the United States, or collected or paid in any amount if the internal tax is not imposed with respect to such like articles;

(b) Collected or paid in an amount in excess of the internal tax imposed with respect to like articles which are the product of any other foreign country, or collected or paid in any amount if the internal tax is not imposed with respect to such like articles.

Where an internal tax is imposed with respect to an article which is the product of a foreign country to compensate for an internal tax imposed (1) with respect to a like article which is the product of the United States, or (2) with respect to materials used in the production of a like article which is the product of the United States, if the amount of the internal tax which is collected and paid with respect to the article which is the product of the Philippines is not in excess of that

permitted by Paragraph 2 (b) of Article IV such collection and payment shall not be regarded as in violation of the first sentence of this Paragraph. This Paragraph shall not apply to the taxes imposed under sections [2306, 2327, or 2356] *4591, 4812, or 4831* of the Internal Revenue Code of the United States which are set forth in part as Annexes IV, V, and VI to this Agreement.

[3. No export tax shall be imposed or collected by the United States on articles exported to the Philippines, or by the Philippines on articles exported to the United States.]

[4.] *3.* No processing tax or other internal tax shall be imposed or collected in the United States or in the Philippines with respect to articles coming into such country for the official use of the Government of the Philippines or of the United States, respectively, or any department or agency thereof.

[5.] *4.* No processing tax or other internal tax shall be imposed or collected in the United States with respect to manila (abaca) fiber not dressed or manufactured in any manner.

[6.] *5.* The United States will not reduce the preference of two cents per pound provided in Section [2470] *4513* of the Internal Revenue Code of the United States (relating to processing taxes on coconut oil, etc.), which is set forth as Annex VII to this Agreement, with respect to articles "wholly the production of the Philippine Islands" or articles "produced wholly from materials the growth or production of the Philippine Islands"; except that it may suspend the provisions of [Subsection (a) (2) of such Section] *Section 4511 (b) of the Internal Revenue Code of the United States* during any period as to which the President of the United States, after consultation with the President of the Philippines, finds that adequate supplies of neither copra nor coconut oil, the product of the Philippines, are readily available for processing in the United States.

ARTICLE V

The Republic of the Philippines will take the necessary legislative and executive actions, prior to or at the time of the entry into force of the revisions of this Agreement authorized by the Congress of the United States and the Congress of the Philippines in 1955, to enact and implement legislation similar to that already enacted by the Congress of the United States as Public Law 419, 83rd Congress, Chapter 323, 2d Session, to facilitate the entry of Philippine traders.

[ARTICLE V

[The value of Philippine currency in relation to the United States dollar shall not be changed, the convertibility of Philippine pesos into United States dollars shall not be suspended, and no restrictions shall be imposed on the transfer of funds from the Philippines to the United States except by agreement with the President of the United States]

[ARTICLE VI

[1. Any citizen of the United States who actually resided in the Philippines, and any citizen of the Philippines who actually resided in the United States, for a continuous period of three years during

the period of forty-two months ending November 30, 1941, if entering the country of such former residence during the period from July 4, 1946, to July 3, 1951, both dates inclusive, for the purpose of resuming residence therein, shall for the purposes of the immigration laws, be considered a non-quota immigrant. After such admission as a non-quota immigrant he shall, for the purposes of the immigration and naturalization laws, be considered as lawfully admitted to such country for permanent residence. The benefits of this Paragraph shall also apply to the wife of any such citizen of the United States, if she is also a citizen thereof, and to his unmarried children under eighteen years of age, and to the wife of any such citizen of the Philippines, if she is also a citizen thereof or is eligible for United States citizenship, and to his unmarried children under eighteen years of age, if such wife or children of such citizen of the United States or of such citizen of the Philippines are accompanying or following to join him during such period. This Paragraph shall not apply to a citizen of the Philippines admitted to the Territory of Hawaii, without an immigration or passport visa, under the provisions of Paragraph (1) of Section 8 (a) of the Act of March 24, 1934, of the United States which is set forth as Annex VIII to this Agreement.

[2. There shall be permitted to enter the Philippines, without regard to any numerical limitations under the laws of the Philippines, in each of the calendar years 1946 to 1951, both inclusive, 1,200 citizens of the United States, each of whom shall be entitled to remain in the Philippines for 5 years.]

ARTICLE [VII] *VI*

1. The disposition, exploitation, development, and utilization of all agricultural, timber, and mineral lands of the public domain, waters, minerals, coal, petroleum and other mineral oils, all forces and sources of potential energy, and other natural resources of [the Philippines,] *either Party*, and the operation of public utilities, shall, if open to any person, be open to citizens of the [United States] *other Party* and to all forms of business enterprise owned or controlled, directly or indirectly, by [United States citizens, except that (for the period prior to the amendment of the Constitution of the Philippines referred to in Paragraph 2 of this Article) the Philippines shall not be required to comply with such part of the foregoing provisions of this sentence as are in conflict with such Constitution.] *citizens of such other Party in the same manner as to and under the same conditions imposed upon citizens or corporations or associations owned or controlled by citizens of the Party granting the right.*

[2. The Government of the Philippines will promptly take such steps as are necessary to secure the amendment of the Constitution of the Philippines so as to permit the taking effect as laws of the Philippines of such part of the provisions of Paragraph 1 of this Article as is in conflict with such Constitution before such amendment.]

2. The rights provided for in Paragraph 1 may be exercised, in the case of citizens of the Philippines with respect to natural resources in the United States which are subject to Federal control or regulations, only through the medium of a corporation organized under the laws of the United States or one of the States thereof and likewise, in the case

of citizens of the United States with respect to natural resources in the public domain in the Philippines, only through the medium of a corporation organized under the laws of the Philippines and at least 60% of the capital stock of which is owned or controlled by citizens of the United States. This provision, however, does not affect the right of citizens of the United States to acquire or own private agricultural lands in the Philippines or citizens of the Philippines to acquire or own land in the United States which is subject to the jurisdiction of the United States and not within the jurisdiction of any State and which is not within the public domain. The Philippines reserves the right to dispose of its public lands in small quantities on especially favorable terms exclusively to actual settlers or other users who are its own citizens. The United States reserves the right to dispose of its public lands in small quantities on especially favorable terms exclusively to actual settlers or other users who are its own citizens or aliens who have declared their intention to become citizens. Each Party reserves the right to limit the extent to which aliens may engage in fishing or engage in enterprises which furnish communications services and air or water transport. The United States also reserves the right to limit the extent to which aliens may own land in its outlying territories and possessions, but the Philippines will extend to American nationals who are residents of any of those outlying territories and possessions only the same rights, with respect to ownership of lands, which are granted therein to citizens of the Philippines. The rights provided for in this Paragraph shall not, however, be exercised by either Party so as to derogate from the rights previously acquired by citizens or corporations or associations owned or controlled by citizens of the other Party.

3. The United States of America reserves the rights of the several States of the United States to limit the extent to which citizens or corporations or associations owned or controlled by citizens of the Philippines may engage in the activities specified in this Article. The Republic of the Philippines reserves the power to deny any of the rights specified in this Article to citizens of the United States who are citizens of States, or to corporations or associations at least 60% of whose capital stock or capital is owned or controlled by citizens of States, which deny like rights to citizens of the Philippines, or to corporations or associations which are owned or controlled by citizens of the Philippines. The exercise of this reservation on the part of the Philippines shall not affect previously acquired rights, provided that in the event that any State of the United States of America should in the future impose restrictions which would deny to citizens or corporations or associations owned or controlled by citizens of the Philippines the right to continue to engage in activities in which they were engaged therein at the time of the imposition of such restrictions, the Republic of the Philippines shall be free to apply like limitations to the citizens or corporations or associations owned or controlled by citizens of such States.

Article VII

1. The Republic of the Philippines and the United States of America each agrees not to discriminate in any manner, with respect to their engaging in business activities, against the citizens or any form of business enterprise owned or controlled by citizens of the

other and that new limitations imposed by either Party upon the extent to which aliens are accorded national treatment with respect to carrying on business activities within its territories, shall not be applied as against enterprises owned or controlled by citizens of the other Party which are engaged in such activities therein at the time such new limitations are adopted, nor shall such new limitations be applied to American citizens or corporations or associations owned or controlled by American citizens whose States do not impose like limitations on citizens or corporations or associations owned or controlled by citizens of the Republic of the Philippines.

2. The United States of America reserves the rights of the several States of the United States to limit the extent to which citizens or corporations or associations owned or controlled by citizens of the Philippines may engage in any business activities. The Republic of the Philippines reserves the power to deny any rights to engage in business activities to citizens of the United States who are citizens of States, or to corporations or associations at least 60% of the capital stock or capital of which is owned or controlled by citizens of States, which deny like rights to citizens of the Philippines or to corporations or associations owned or controlled by citizens of the Philippines. The exercise of this reservation on the part of the Philippines shall not affect previously acquired rights, provided that in the event that any State of the United States of America should in the future impose restrictions which would deny to citizens or corporations or associations owned or controlled by citizens of the Philippines the right to continue to engage in business activities in which they were engaged therein at the time of the imposition of such restrictions, the Republic of the Philippines shall be free to apply like limitations to the citizens or corporations or associations owned or controlled by citizens of such States.

Article VIII

Nothing in this Agreement shall be construed:

(1) to require either Party to furnish any information the disclosure of which it considers contrary to its essential security interests; or

(2) to prevent either Party from taking any action which it considers necessary for the protection of its essential security interests—

(a) relating to fissionable materials or the materials from which they are derived;

(b) relating to the traffic in arms, ammunition and implements of war and to such traffic in other goods and materials as is carried on directly or indirectly for the purpose of supplying a military establishment;

(c) taken in time of war or other emergency in international relations; or

(3) to prevent either Party from taking any action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security.

ARTICLE [VIII] *IX*

[1. Upon the taking effect of this Agreement the provisions thereof placing obligations on the United States: (a) if in effect as laws of the United States at the time this Agreement takes effect, shall continue in effect as laws of the United States during the effectiveness of the Agreement; or (b) if not so in effect at the time the Agreement takes effect, shall take effect and continue in effect as laws of the United States during the effectiveness of the Agreement. The Philippines will continue in effect as laws of the Philippines, during the effectiveness of this Agreement, the provisions thereof placing obligations on the Philippines, except as is otherwise provided in Paragraph 1 of Article VII].

1. Upon the taking effect of this Agreement, and upon the taking effect of the revisions thereof authorized by the Congress of the United States and the Congress of the Philippines in 1955, the provisions placing obligations on the United States: (a) if in effect as laws of the United States at the time of such taking effect, shall continue in effect as laws of the United States during the effectiveness of the Agreement; or (b) if not so in effect, shall take effect and continue in effect as laws of the United States during the effectiveness of the Agreement.

2. The United States and the Philippines will promptly enact, and shall keep in effect during the effectiveness of this Agreement, such legislation as may be necessary to supplement the laws of the United States and the Philippines, respectively, referred to in Paragraph 1 of this Article, and to implement the provisions of such laws and the provisions of this Agreement placing obligations on the United States and the Philippines, respectively. [Moreover, the Philippines will promptly enact, and keep in force and effect during the effectiveness of this Agreement, such legislation as may be necessary to put and keep in effect during the effectiveness of this Agreement, the allocation, reallocation, transfer, and assignment of quotas on the basis provided for in Paragraphs 3 and 4 of Article II; and, if the United States exercises the right to establish quotas pursuant to Paragraph 1 of Article III and to provide for the allocation thereof pursuant to Paragraph 2 of the same Article, the Philippines will promptly enact, and keep in force during the period for which each such quota is established, such legislation as is necessary to put and keep in effect, on the basis provided by the United States, the allocation of such quotas.

[3. The Philippines agree to assist the United States in carrying out Title I of the Philippine Rehabilitation Act of 1946 of the United States by providing that the following acts relative to such Title shall be offenses under the laws of the Philippines, and that, upon conviction thereof, the penalties attached to such offenses shall be enforced:

> [Whoever, in the Philippines or elsewhere, makes any statement or representation knowing it to be false, or whoever willfully and fraudulently overvalues loss of or damage to property for the purpose of obtaining for himself or for any claimant any compensation pursuant to such Title, or for the purpose of influencing in any way the action of the Philippine War Damage Commission of the United States with respect to any claim for compensation pursuant to such Title, or for the purpose of obtain-

ing money, property, or anything of value under such Title, shall be punished by a fine of not more than the equivalent, in the currency of the Philippines, of five thousand dollars, United States currency, or by imprisonment for not more than two years, or both, and shall not receive any payments or other benefits under such Title and, if any payment or benefit shall have been made or granted, such Commission shall take such action as may be necessary to recover the same.

[(b) Whoever, in the Philippines or elsewhere, pays or offers to pay, or promises to pay, or receives, on account of services rendered or to be rendered in connection with any claim for compensation under such Title, any remuneration in excess of five per centum of the compensation paid by the Philippine War Damage Commission of the United States on account of such claim, shall be deemed guilty of a misdemeanor and shall be fined not more than the equivalent, in the currency of the Philippines, of five thousand dollars, United States currency, or imprisonment for not more than twelve months, or both, and, if any such payment or benefit shall have been made or granted, such Commission shall take such action as may be necessary to recover the same, and, in addition thereto, any such claimant shall forfeit all rights under such title.]

ARTICLE [IX] *X*

The United States and the Philippines agree to consult with each other with respect to any questions as to the interpretation or the application of this Agreement, concerning which either Government may make representations to the other. *Not later than July 1, 1971, the United States and the Philippines agree to consult with each other as to joint problems which may arise as a result or in anticipation of the termination of this Agreement.*

ARTICLE [X] *XI*

[1. The Philippine Trade Act of 1946 of the United States having authorized the President of the United States to enter into this Agreement, and the Congress of the United States having enacted such legislation as may be necessary to make the provisions thereof placing obligations on the United States take effect as laws of the United States, this Agreement shall not take effect unless and until the Congress of the Philippines accepts it by law and has enacted such legislation as may be necessary to make all provisions hereof placing obligations on the Philippines take effect as laws of the Philippines, except as is otherwise provided in Paragraph 1 of Article VII. This Agreement shall then be proclaimed by the President of the United States and by the President of the Philippines, and shall enter into force on the day following the date of such proclamations, or, if they are issued on different dates, on the day following the later in date.]

[2.] *1.* This Agreement shall have no effect after July 3, 1974. It may be terminated by either the United States or the Philippines at any time, upon not less than five years' written notice. If the President of the United States or the President of the Philippines determines and proclaims that the other country has adopted or applied measures or

practices which would operate to nullify or impair any right or obligation provided for in this Agreement, then the Agreement may be terminated upon not less than six months' written notice.

[3. If the President of the United States determines that a reasonable time for the making of the amendment to the Constitution of the Philippines referred to in Paragraph 2 of Article VII has elapsed, but that such amendment has not been made, he shall so proclaim and this Agreement shall have no effect after the date of such proclamation.

[4. If the President of the United States determines and proclaims, after consultation with the President of the Philippines, that the Philippines or any of its political subdivisions or the Philippine Government is in any manner discriminating against citizens of the United States or any form of United States business enterprise, then the President of the United States shall have the right to suspend the effectiveness of the whole or any portion of this Agreement. If the President of the United States subsequently determines and proclaims, after consultation with the President of the Philippines, that the discrimination which was the basis for such suspension (a) has ceased, such suspension shall end; or (b) has not ceased after the lapse of a time determined by the President of the United States to be reasonable, then the President of the United States shall have the right to terminate this Agreement upon not less than six months' written notice.]

2. The revisions of this Agreement authorized by the Congress of the United States and the Congress of the Philippines in 1955 shall enter into force on January 1, 1956.

PROTOCOL TO ACCOMPANY THE AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF THE PHILIPPINES CONCERNING TRADE AND RELATED MATTERS DURING A TRANSITIONAL PERIOD FOLLOWING THE INSTITUTION OF PHILIPPINE INDEPENDENCE, *SIGNED AT MANILA ON JULY 4, 1946, AS REVISED*

The undersigned duly empowered Plenipotentiaries have agreed to the following Protocol to [this] *the* Agreement between the United States of America and the Republic of the Philippines concerning trade and related matters during a transitional period following the institution of Philippine Independence, signed [this day,] *at Manila on July 4, 1946, as revised*, which shall constitute an integral part of the Agreement:

1. For the purpose of the Agreement—

(a) The term "person" includes partnerships, corporations, and associations.

(b) The term "United States" means the United States of America and, when used in a geographical sense, means the States, the District of Columbia, the Territories of Alaska and Hawaii, and Puerto Rico.

(c) The term "Philippines" means the Republic of the Philippines and, when used in a geographical sense, means the territories of the Republic of the Philippines, whether a particular act in question took place, or a particular situation in question existed, within such territories before or after the institution of the Republic of the Philippines. As used herein the territories of the Republic of the Philippines comprise all the territories specified

in Section 1 of Article I of the Constitution of the Philippines which is set forth as Annex [XI] *X* to this Agreement.

(d) The term "ordinary customs duty" means a customs duty based on the article as such (whether or not such duty is also based in any manner on the use, value, or method of production of the article, or on the amount of like articles imported, or on any other factor); but does not include—

(1) A customs duty based on an act or omission of any person with respect to the importation of the article, or of the country from which the article is exported, or from which it comes; or

(2) A countervailing duty imposed to offset a subsidy, bounty, or grant; or

(3) An anti-dumping duty imposed to offset the selling of merchandise for exportation at a price less than the prevailing price in the country of export; or

(4) Any tax, fee, charge, or exaction, imposed on or in connection with importation unless the law of the country imposing it designates or imposes it as a customs duty or contains a provision to the effect that it shall be treated as a duty imposed under the customs laws; or

(5) The tax imposed by Section [2491 (e)] *4581* of the Internal Revenue Code of the United States, which is set forth as Annex [IX] *VIII* to this Agreement, with respect to an article, merchandise, or combination, ten per centum or more of the quantity by weight of which consists of, or is derived directly or indirectly from, one or more of the oils, fatty acids, or salts specified in Section [2470] *4511* of such Code which is set forth as Annex VII to this Agreement; or the tax imposed by Section [3500] *4501* (*b*) of such Code which is set forth as Annex [X] *IX* to this Agreement.

(e) The term "United States article" means an article which is the product of the United States, unless, in the case of an article produced with the use of materials imported into the United States from any foreign country (except the Philippines) the aggregate value of such imported materials at the time of importation into the United States was more than twenty per centum of the value of the article imported into the Philippines, the value of such article to be determined in accordance with, and as of the time provided by, the customs laws of the Philippines in effect at the time of importation of such article. As used in this Subparagraph the term "value", when used in reference to a material imported into the United States, includes the value of the material ascertained under the customs laws of the United States in effect at the time of importation into the United States, and, if not included in such value, the cost of bringing the material to the United States, but does not include the cost of landing it at the port of importation, or customs duties collected in the United States. For the purposes of this Subparagraph any imported material, used in the production of an article in the United States, shall be considered as having been used in the production of an article subsequently produced in the United States, which is the product of a chain of production in the United States in the

course of which an article, which is the product of one stage of the chain, is used by its producer or another person, in a subsequent stage of the chain, as a material in the production of another article. *It is understood that "United States articles" do not lose their status as such, for the purpose of Philippine tariff preferences, by reason of being imported into the Philippines from a country other than the United States or from an insular possession of the United States or by way of or via such a country or insular possession.*

(f) The term "Philippine article" means an article which is the product of the Philippines, unless, in the case of an article produced with the use of materials imported into the Philippines from any foreign country (except the United States) the aggregate value of such imported materials at the time of importation into the Philippines was more than twenty per centum of the value of the article imported into the United States, the value of such article to be determined in accordance with, and as of the time provided by, the customs laws of the United States in effect at the time of importation of such article. As used in this Subparagraph the term "value", when used in reference to a material imported into the Philippines, includes the value of the material ascertained under the customs laws of the Philippines in effect at the time of importation into the Philippines, and, if not included in such value, the cost of bringing the material to the Philippines, but does not include the cost of landing it at the port of importation, or customs duties collected in the Philippines. For the purposes of this Subparagraph any imported material, used in the production of an article in the Philippines, shall be considered as having been used in the production of an article subsequently produced in the Philippines, which is the product of a chain of production in the Philippines in the course of which an article, which is the product of one stage of the chain, is used by its producer or another person, in a subsequent stage of the chain, as a material in the production of another article. *It is understood that "Philippine articles" do not lose their status as such, for the purpose of United States tariff preferences, by reason of being imported into the United States from a country other than the Philippines or from an insular possession of the United States or by way of or via such a country or insular possession.*

(g) The term "United States duty" means the rate or rates of ordinary customs duty which (at the time and place of entry, or withdrawal from warehouse, in the United States for consumption, of the Philippine article) would be applicable to a like article if imported from that foreign country which is entitled to the lowest rate, or the lowest aggregate of rates, of ordinary customs duty with respect to such like article.

(h) The term "Philippine duty" means the rate or rates of ordinary customs duty which (at the time and place of entry, or withdrawal from warehouse, in the Philippines for consumption, of the United States article) would be applicable to a like article if imported from that foreign country which is entitled to the lowest rate, or the lowest aggregate of rates, of ordinary customs duty with respect to such like article.

(i) The term "internal tax" includes an internal fee, charge, or exaction, and includes—

(1) The tax imposed by Section [2491 (c)] *4581* of the Internal Revenue Code of the United States which is set forth as Annex [IX] *VIII* to this Agreement, with respect to an article, merchandise, or combination, ten per centum or more of the quantity by weight of which consists of, or is derived directly or indirectly from, one or more of the oils, fatty acids, or salts specified in Section [2470] *4511* of such Code which is set forth as Annex VII of this Agreement; and the tax imposed by Section [3500] *4501* (*b*) of such Code which is set forth as Annex [X] *IX* to this Agreement; and

(2) Any other tax, fee, charge, or exaction, imposed on or in connection with importation unless the law of the country imposing it designates or imposes it as a customs duty or contains a provision to the effect that it shall be treated as a duty imposed under the customs laws.

2. For the purposes of Subparagraphs (g) and (h) of Paragraph 1 of this Protocol—

(a) If an article is entitled to be imported from a foreign country free of ordinary customs duty, that country shall be considered as the country entitled to the lowest rate of ordinary customs duty with respect to such article; and

(b) A reduction in ordinary customs duty granted any country, by law, treaty, trade agreement, or otherwise, with respect to any article, shall be converted into the equivalent reduction in the rate of ordinary customs duty otherwise applicable to such article.

3. For the purposes of Paragraphs 1 and 2 of Article IV, any material, used in the production of an article, shall be considered as having been used in the production of an article subsequently produced, which is the product of a chain of production in the course of which an article, which is the product of one stage of the chain, is used by its producer or another person, in a subsequent stage of the chain, as a material in the production of another article.

4. The terms "includes" and "including" when used in a definition contained in this Agreement shall not be deemed to exclude other things otherwise within the meaning of the term defined.

ANNEXES OF STATUTORY PROVISIONS REFERRED TO IN THE AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF THE PHILIPPINES *REVISING THE AGREEMENT OF JULY 4, 1946* CONCERNING TRADE AND RELATED MATTERS DURING A TRANSITIONAL PERIOD FOLLOWING THE INSTITUTION OF PHILIPPINE INDEPENDENCE[1]

ANNEX I

Sugar Act of [1937] *1948* of the United States, as amended to [May 1, 1946.][2]

SECTION 101. For the purposes of this Act, except Title [IV] *V*—

"(e) The term 'direct-consumption sugar' means any sugars which are principally of crystalline structure and which are not to be further

[1] The annexes as here presented are included for purposes of information only, and are not a part of the legislation requested. They will be revised to reflect any additional changes which occur before the date of signature of the revising agreement.

refined or otherwise improved in quality." [(50 Stat.) Pt. 1 (903, Ch. 898)] *61 Stat., Pt. 1, 922*

ANNEX II

Tariff Act of 1930 of the United States, as amended to [May 1, 1946.][2]

"PAR. 1622. All binding twine *and twine chiefly used for baling hay, straw, and other fodder and bedding materials*, manufactured from New Zealand hemp, henequen, manila, istle or Tampico fibre, sisalgrass, or sunn, or a mixture of any two or more of them, of single ply and measuring not exceeding seven hundred and fifty feet to the pound." [(46 Stat.) Pt. 1 (675, Ch. 497)] *46 Stat., Pt. 1, 675; 65 Stat. 655*

ANNEX III

Tariff Act of 1930 of the United States, as amended to [May 1, 1946.][2]

"PAR. 602. The term 'wrapper tobacco' as used in this title means that quality of leaf tobacco which has the requisite color, texture, and burn, and is of sufficient size for cigar wrappers, and the term 'filler tobacco' means all other leaf tobacco . . ." [(46 Stat.) Pt. 1 (631, Ch. 497)] *46 Stat., Pt. 1, 631*

ANNEX IV

Internal Revenue Code *of 1954* of the United States, as amended to [May 1, 1946.][2]

["Chapter 16—Oleomargarine, adulterated butter, and process or renovated butter.]

["SEC. 2306. Importation.] "*SEC. 4591. IMPOSITION OF TAX.*

[All] "*(a)* RATE.—*There is hereby imposed on all* oleomargarine imported from foreign countries [shall,], in addition to any import duty imposed on the same, [pay] an internal revenue tax of [fifteen] *15* cents per pound, such tax to be represented by coupon stamps [as in the case of oleomargarine manufactured in the United States] . . ."

["SEC. 2300. Oleomargarine defined.] "*SEC. 4592. DEFINITIONS.*

"*(a) OLEOMARGARINE.*—For the purposes of [this chapter, and of sections 3200 and 3201,] *section 4591*, certain manufactured substances, certain extracts, and certain mixtures and compounds, including such mixtures and compounds with butter, shall be known and designated as 'oleomargarine,' namely: All substances known prior to August 2, 1886, as oleomargarine, oleo, oleomargarine oil, butterine, lardine, suine, and neutral; all mixtures and compounds of oleomargarine, oleo, oleomargarine oil, butterine, lardine, suine, and neutral; all lard extracts and tallow extracts; and all mixtures and compounds of tallow, beef fat, suet, lard, lard oil, fish oil or fish fat, vegetable oil, annatto, and other coloring matters, intestinal fat, and offal fat;—if (1) made in imitation or semblance of butter, or (2) calculated or intended to be sold as butter or for butter, or (3) churned, emulsified, or mixed in cream, milk, water, of other liquid, and containing mois-

[2] The date of signature of the revising agreement is to be inserted here.

ture in excess of [one] *1* per centum [*per centum*] or common salt." *68A Stat. 545*

SEC. 4593. EXEMPTION.

[This section] *"(a) SHORTENING OR CONDIMENTS.—Section 4591* shall not apply to puff-pastry shortening not churned or emulsified in milk or cream, and having a melting point of [one hundred and eighteen] *118* degrees Fahrenheit or more, nor to any of the following containing condiments and spices: salad dressings, mayonnaise dressings, or mayonnaise products, nor to liquid emulsion, pharmaceutical preparations, oil meals, liquid preservatives, illuminating oils, cleansing compounds, or flavoring compounds." [(53 Stat.) 247 and 248."] *68A Stat. 546*

ANNEX V

Internal Revenue Code *of 1954* of the United States, as amended to [May 1, 1946.][2]

SEC. 4812. IMPORTATION OF ADULTERATED BUTTER

"There shall be imposed upon adulterated butter imported from a foreign country, in addition to any import duty imposed on the same, an internal revenue tax of 15 cents per pound, such tax to be represented by coupon stamps as in the case of adulterated butter manufactured in the United States . . ." 68A Stat. 571

["SEC 2327. Other laws applicable.

["(a) OLEOMARGARINE.—The provisions of sections 2301 (a) (2), 2305 to 2311, inclusive (except subsections (a), (b) and (h) of section 2308), and section 3791 (a) (1), shall apply to the manufacturers of adulterated butter to an extent necessary to enforce the marking, branding, identification, and regulation of the exportation and importation of adulterated butter. 53 Stat. 255." (53 Stat.) Pt. 1 (247, 250, 252, 253, and 255, Ch. 2)]

"SEC. [2320] *4826.* [Definitions.] *DEFINITIONS.*

"(a) BUTTER.—For the purpose of this [chapter and sections 3206 and 3207,] *part*, the word 'butter' shall be understood to mean the food product usually known as butter, and [which is] made exclusively from milk or cream, or both, with or without common salt, and with or without additional coloring matter.

"(b) ADULTERATED BUTTER.—'Adulterated butter' is defined to mean a grade of butter produced by mixing, reworking, rechurning in milk or cream, refining, or in any way producing a uniform, purified, or improved product from different lots or parcels of melted or unmelted butter or butter fat, in which any acid, alkali, chemical, or any substance whatever is introduced or used for the purpose *or* with the effect of deodorizing or removing therefrom rancidity, or any butter or butter fat with which there is mixed any substance foreign to butter as defined in subsection (a), with intent or effect of cheapening in cost the product, or any butter in the manufacture or manipulation of which any process or material is used with intent or effect of causing the absorption of abnormal quantities of water, milk, or cream." [53 Stat. 252 and 253."] *68A Stat. 576*

[2] The date of signature of the revising agreement is to be inserted here.

ANNEX VI

Internal Revenue Code *of 1954* of the United States, as amended to [May 1, 1946.][2]

["SEC. 2356. Importation.] "*SEC. 4831. IMPOSITION OF TAX.*

[All] "*(b) IMPORTED.—There shall be imposed upon all* filled cheese [as defined in section 2350 (b)] imported from *a* foreign [countries] *country*, [shall,] in addition to any import duty imposed on the same, [pay] an internal revenue tax of 8 cents per pound; [such tax to be represented by coupon stamps;] and such imported filled cheese and the packages containing the same shall be stamped, marked, and branded, as in the case of filled cheese manufactured in the United States." [53 Stat. 258." (53 Stat.) Pt. 1 (256 and 258, Ch. 2)] *68A Stat. 577*

["SEC. 2350. Definitions.] "*SEC. 4846. DEFINITIONS.*

"For the purposes of this [chapter and sections 3210 and 3211—] *part—*

["(a)] "*(1)* CHEESE.—The word 'cheese' shall be understood to mean the food product known as cheese, and [which is] made from milk or cream and without the addition of butter, or any animal, vegetable, or other oils or fats foreign to such milk or cream, with or without additional coloring matter.

["(b)] "(2) FILLED CHEESE.—Certain substances and compounds shall be known and designated as 'filled cheese,' namely: All substances made of milk or skimmed milk, with the admixture of butter, animal oils or fats, vegetable or any other oils, or compounds foreign to such milk, and made in imitation or semblance of cheese. Substances and compounds, consisting principally of cheese with added edible oils, which are not sold as cheese or as substitutes for cheese but are primarily useful for imparting a natural cheese flavor to other foods shall not be considered 'filled cheese' within the meaning of this [chapter.] *part.*" [53 Stat. 256."] *68A Stat. 579*

ANNEX VII

Internal Revenue Code *of 1954* of the United States, as amended to [May 1, 1946.][2]

["SEC. 2470. TAX.] "*SEC. 4511. IMPOSITION OF TAX.*

["(a) Rate.]

["(1) In general.—] "*(a) GENERAL.*—There [shall be] *is hereby* imposed upon the first domestic processing of coconut oil, palm oil, palm-kernel oil, fatty acids derived from any of the foregoing oils, salts of any of the foregoing (whether or not such oils, fatty acids or salts have been refined, sulphonated, sulphated, hydrogenated, or otherwise processed), or any combination or mixture containing a substantial quantity of any one or more of such oils, fatty acids, or salts, a tax of [three] *3* cents per pound, to be paid by the processor.

["(2)] "*(b)* ADDITIONAL RATE ON COCONUT OIL.—There [shall be] *is hereby* imposed (in addition to the tax imposed by the preceding *subsection*) a tax of [two] *2* cents per pound, to be paid by the processor, upon the first domestic processing of coconut oil or of any combination or mixture containing a substantial quantity of coconut oil with respect to which oil there has been no previous first domestic

[2] The date of signature of the revising agreement is to be inserted here.

processing. [except that the tax imposed by this sentence shall not apply when it is established, in accordance with regulations prescribed by the Commissioner with the approval of the Secretary, that such coconut oil (whether or not contained in such a combination or mixture), (A) is wholly the production of the Philippine Islands or any possession of the United States, or (B) was produced wholly from materials the growth or production of the Philippine Islands or any possession of the United States, or (C) was brought into the United States on or before June 9, 1934, or produced from materials brought into the United States on or before June 9, 1934, or (D) was purchased under a bona fide contract entered into prior to April 26, 1934, or produced from materials purchased under a bona fide contract entered into prior to April 26, 1934.]

"(*c*) TERMINATION OF ADDITIONAL RATE.—The tax imposed by [this paragraph] *subsection* (*b*) shall not apply to any domestic processing after July 3, 1974."

["(b) Exemption.—]

"SEC. 4513. EXEMPTIONS.

"(*a*) ACIDS AND SALTS PREVIOUSLY TAXED.—The tax under [subsection (a)] *section 4511* shall not apply—

"(1) with respect to any fatty acid or salt resulting from a previous first domestic processing taxed under such section or upon which an import tax has been paid under [Chapter 22,] *subchapter E of chapter 38*, or

"(2) with respect to any combination or mixture by reason of its containing an oil, fatty acid, or salt with respect to which there has been a previous first domestic processing or upon which an import tax has been paid under [Chapter 22.] *subchapter E of chapter 38.*

"(*b*) *FROM ADDITIONAL TAX ON COCONUT OIL.—The additional tax* [except that the tax] imposed by [this sentence] *section 4511* (*b*) shall not apply when it is established, in accordance with regulations prescribed by the [Commissioner with the approval of the Secretary,] *Secretary or his delegate*, that [such] *the* coconut oil (whether or not contained in [such] a combination or mixture),—

[(A)] "(*1*) is wholly the production of the Philippine Islands, [or] any possession of the United States, *or the Territory of the Pacific Islands (hereinafter in this paragraph referred to as the 'Trust Territory')*, or

[B] "(*2*) was produced wholly from materials the growth or production of the Philippine Islands, [or] any possessions of the United States, *or the Trust Territory . . .*"

68A Stat. 536–537

["(c) Importation prior to August 21, 1936.—Notwithstanding the provisions of subsections (a) and (b) of this section, the first domestic processing of sunflower oil or sesame oil (or any combination or mixture containing a substantial quantity of sunflower oil or sesame oil), if such oil or such combination or mixture or such oil contained therein was imported prior to August 21, 1936, shall be taxed in accordance with the provisions of section 602½ of the Revenue Act of 1934, 48 Stat. 763, in force on June 22, 1936. 53 Stat. 264." (53 Stat.) Pt. 1 (264 and 265, Ch. 2; Pub. Law 371—79th Cong.)]

[An Act of the United States to suspend in part the processing tax on coconut oil, as amended to May 1, 1946.]

[*"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That section 2470 (a) (2) of the Internal Revenue Code is hereby suspended: *Provided*, That if the President after receipt by him of a request from the Government of the Commonwealth of the Philippine Islands that the suspension of section 2470 (a) (2) be terminated, shall find that adequate supplies of copra, coconut oil, or both, the product of the Philippine Islands, are readily available for processing in the United States, he shall so proclaim; and thirty days after such proclamation, the suspension of section 2470 (a) (2) of the Internal Revenue Code, shall terminate.

["SEC. 2. This Act shall become effective the day following its enactment, and shall terminate on June 30, 1946.". (56 Stat.) Pt. 1 (752 and 753, Ch. 560); (58 Stat.) Pt. 1 (647, Ch. 332)]

[ANNEX VIII

[Act of March 24, 1934 of the United States, as amended to May 1, 1946.

["SEC. 8. (a) Effective upon the acceptance of this Act by concurrent resolution of the Philippine Legislature or by a convention called for that purpose, as provided in section 17—

["(1) For the purposes of the Immigration Act of 1917, the Immigration Act of 1924 (except section 13 (c), this section, and all other laws of the United States relating to the immigration, exclusion, or expulsion of aliens, citizens of the Philippine Islands who are not citizens of the United States shall be considered as if they were aliens. For such purposes the Philippine Islands shall be considered as a separate country and shall have for each fiscal year a quota of fifty. This paragraph shall not apply to a person coming or seeking to come to the Territory of Hawaii who does not apply for and secure an immigration or passport visa, but such immigration shall be determined by the Department of the Interior on the basis of the needs of industries in the Territory of Hawaii. 48 Stat. 462." (48 Stat.) Pt. 1 (462, Ch. 84)]

ANNEX [IX] *VIII*

Internal Revenue Code *of 1954*, of the United States, as amended to [May 1, 1946] [2]

"SEC. [2490.] 4581. IMPOSITION OF TAX.

"In addition to any other tax or duty imposed by law, there [shall be] *is hereby* imposed upon the following articles imported into the United States, unless treaty provisions of the United States otherwise provide, a tax at the rates set forth, [in section 2491,] to be paid by the importer—[53 Stat. 267."]

[SEC. 2491. Rate of Tax.]

["(c)]

"Any article, merchandise, or combination (except oils specified in section [2470)], *4511*), 10 [per centum] *percent* or more of the quantity by weight of which consists of, or is derived directly or indirectly from, one or more of the products specified [above in this paragraph] *in sections 4561 and 4571*, or of the oils, fatty acids, or salts specified in section [2470,] *4511*, a tax at the rate or rates per pound equal to that proportion of the rate or rates

prescribed in [this paragraph or such section 2470] *sections 4561 and 4571 or section 4511* in respect of such product or products which the quantity by weight of the imported article, merchandise, or combination, consisting of or derived from such product or products, bears to the total weight of the imported article, merchandise, or combination;

"*SEC. 4582. EXEMPTIONS.*

"*(a) CERTAIN NATURAL OILS.*—There shall not be taxable under [this subparagraph] *section 4581* any article, merchandise, or combination (other than an oil, fat, or grease, and other than products resulting from processing seeds without full commercial extraction of the oil content), by reason of the presence therein of an oil, fat, or grease which is a natural component of such article, merchandise, or combination and has never had a separate existence as an oil, fat, or grease." [53 Stat. 267 and 268." (53 Stat.) Pt. 1 (267 and 268, Ch. 2)] *68A Stat. 544*

ANNEX [X] *IX*

Internal Revenue Code *of 1954* of the United States, as amended to [May 1, 1946] [2]

["CHAPTER 32. Sugar.]

["SEC. 3500. Rate of Tax.]

"*SEC. 4501. IMPOSITION OF TAX.*

"(*b*) IMPORT TAX.—In addition to any other tax or duty imposed by law, there [shall be] *is hereby* imposed, under such regulations as the [Commissioner of Customs] *Secretary or his delegate* shall prescribe, [with the approval of the Secretary,] a tax upon articles imported or brought into the United States as follows:

"(1) *on* all manufactured sugar testing by the polariscope [ninety-two] *92* sugar degrees, 0.465 cent per pound, and, for each additional sugar degree shown by the polariscopic test, 0.00875 cent per pound additional, and fractions of a degree in proportion;

"(2) *on* all manufactured sugar testing by the polariscope less than [ninety-two] *92* sugar degrees, 0.5144 cent per pound of the total sugars therein;

"(3) *on* all articles composed in chief value of manufactured sugar, 0.5144 cent per pound of the total sugars therein." [53 Stat. 428."] *68A Stat. 533*

"SEC. [3507] *4502.* DEFINITIONS.

"*For the purposes of this subchapter.*—

[b] "(*3*) MANUFACTURED SUGAR.—The term 'manufactured sugar' means any sugar derived from sugar beets or sugarcane, which is not to be, and which shall not be, further refined or otherwise improved in quality; except sugar in liquid form which contains nonsugar solids (excluding any foreign substance that may have been added *or developed in the product*) equal to more than 6 per centum of the total soluble solids [.] and except also sirup of cane juice produced from [sugar cane] *sugarcane* grown in continental United States. The grades or types of sugar within the meaning of this definition shall include, but shall not be limited to, granulated sugar, lump sugar, cube sugar, powdered

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sugar, sugar in the form of blocks, cones, or molded shapes, confectioners' sugar, washed sugar, centrifugal sugar, clarified sugar, tubinado sugar, plantation white sugar, muscovado sugar, refiners' soft sugar, invert sugar mush, raw sugar, sirups, molasses, and sugar mixtures.

[“(c)] “(4) TOTAL SUGARS.—The term 'total sugars' means the total amount of the sucrose (Clerget) and of the reducing or invert sugars. The total sugars contained in any grade or type of manufactured sugar shall be ascertained in the manner prescribed in paragraphs 758, 759, 762, and 763 of the United States Customs Regulations (1931 edition).” [(53 Stat.) Pt. 1 (426, 428, and 429, Ch. 2).] *68A Stat. 534*

ANNEX [XI] *X*

Constitution of the Philippines as amended to [May 1, 1946.][1]

“ARTICLE I.—THE NATIONAL TERRITORY

“SECTION 1. The Philippines comprises all the territory ceded to the United States by the Treaty of Paris concluded between the United States and Spain on the tenth day of December, eighteen hundred and ninety-eight, the limits of which are set forth in Article III of said treaty, together with all the islands embraced in the treaty concluded at Washington, between the United States and Spain on the seventh day of November, nineteen hundred, and in the treaty concluded between the United States and Great Britain on the second day of January, nineteen hundred and thirty, and all territory over which the present Government of the Philippine Islands exercises jurisdiction.”

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italics, existing law in which no change is proposed is shown in roman):

SECTION 9 OF THE ACT OF MARCH 2, 1917

SEC. 9. That the statutory laws of the United States not locally inapplicable, except as hereinbefore or hereinafter otherwise provided, shall have the same force and effect in Puerto Rico as in the United States, except the internal revenue laws other than those contained in the Philippine Trade Act of 1946 *or the Philippine Trade Agreement Revision Act of 1955: Provided, however*, That hereafter all taxes collected under the internal revenue laws of the United States on articles produced in Puerto Rico and transported to the United States, or consumed in the island shall be covered into the Treasury of Puerto Rico.”

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[1] The date of signature of the revising agreement is to be inserted here.

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Calendar No. 870

84TH CONGRESS, 1st Session | SENATE | REPORT No. 863

TARIFF COMMISSION STUDY OF EFFECT OF IMPORTS OF TEXTILES AND TEXTILE PRODUCTS UPON DOMESTIC TEXTILE INDUSTRY

JULY 14, 1955.—Ordered to be printed

Mr. BYRD, from the Committee on Finance, submitted the following

REPORT

[To accompany S. Res. 121]

The Committee on Finance to whom was referred the resolution (S. Res. 121) to investigate the effect of imports of textile from Japan upon the domestic textile industry, having considered the same, report favorably thereon with amendments and recommend that the resolution, as amended, do pass.

AMENDMENTS

The Finance Committee, upon receipt of a report from the Tariff Commission on Senate Resolution 121, which indicated serious problems in connection with the carrying out of that resolution as written, amended it so as to require the Tariff Commission to keep currently informed on each of the textile products reduced in trade agreements and to move promptly on any escape-clause investigation requested by the proper parties.

The amended resolution is as follows:

RESOLUTION Directing the United States Tariff Commission to study the effect of imports of textiles and textile products upon the domestic textile industry

Whereas substantial reductions have been made in tariff rates on textile products in various trade agreements with foreign countries; and

Whereas more than one million persons are employed directly in the textile industry of the United States; and

Whereas in many sections of the Nation the entire economy of a community is tied directly to the healthy operation of the textile industry; and

Whereas the textile industry of the United States is a vital part of our national defense: Now, therefore, be it

Resolved, That the United States Tariff Commission is directed to keep currently informed regarding the impact of imports of textiles and textile products on the domestic industry producing like or directly competitive products and to be prepared to act promptly on such investigations as may be requested by the President, or directed by resolution of either House of Congress, the Committee on Finance

Calendar No. 871

84TH CONGRESS, 1st Session | SENATE | REPORT No. 864

AMENDING SUBSECTION (E) OF SECTION 1 OF TITLE 5 OF THE DISTRICT OF COLUMBIA REVENUE ACT OF 1937, AS AMENDED

JULY 14, 1955.—Ordered to be printed

Mr. BIBLE, from the Committee on the District of Columbia, submitted the following

REPORT

[To accompany H. R. 2406]

The Committee on the District of Columbia, to whom was referred the bill (H. R. 2406) to amend subsection (e) of section 1 of title 5 of the District of Columbia Revenue Act of 1937, as amended, after full consideration, reports favorably thereon without amendment and recommends that the bill do pass.

The purpose of this bill is to amend subsection (e) of section 1 of title 5 of the District of Columbia Revenue Act of 1937, as amended, which subsection deals with the inheritance tax law of the District of Columbia, and reads as follows:

(e) Property transferred exclusively for public or municipal purposes, to the United States or the District of Columbia, or exclusively for charitable, educational, or religious purposes within the District of Columbia, and property transferred to the American National Red Cross, shall be exempt from any and all taxation under the provisions of this section.

This existing law imposes an inheritance tax on property having its taxable situs in the District of Columbia transferred as a consequence, or in contemplation, of the death of another person whether the transfer is by will, or by law, or by right of survivorship.

The amendment proposed by this bill will change subsection (e), as set forth above, to read as follows:

(e) Property transferred exclusively for public or municipal purposes, to the United States or the District of Columbia, or exclusively for charitable, educational, or religious purposes, shall be exempt from any and all taxation under the provisions of this section.

The effect of this bill would be to exempt from inheritance tax property transferred exclusively for public or municipal purposes, to the United States or the District of Columbia, or exclusively for charitable, educational, or religious purposes.

of the Senate, or the Committee on Ways and Means of the House of Representatives, or applied for by any interested party, under section 7 of the Trade Agreement Extension Act of 1951, as amended, to determine whether any product upon which a concession has been granted in a trade agreement is, as a result in whole or in part of the concession, being imported into the United States in such increased quantities, either actual or relative, as to cause or threaten serious injury to the domestic industry producing like or directly competitive products.

STATEMENT

The Tariff Commission report included the following statement:

* * * * * * *

The resolution provides for an "escape clause" investigation with respect to "any textile product" on which a tariff concession was granted in the agreement resulting from the recent negotiations at Geneva involving Japan. The term "textile" includes not only cotton, wool, silk, and linen, but also synthetic textiles such as rayon. Moreover, the term "textile products" is very inclusive, and would cover articles made from textile materials. Accordingly, there would be involved a considerable number of products for determination in the case of each product on which a separate concession was granted whether, as a result, in whole or in part of the duty applied pursuant to the agreement of June 8, 1955, the product is being imported into the United States in such increased quantities (either actual or relative) as to cause or threaten serious injury to the domestic textile industry producing like or directly competitive products.

As indicated above, the recitals of the proposed resolution refer to "tariff reductions * * * agreed to at the recent negotiations in Geneva" which "possibly will damage or pose the threat of damage to the textile industry of the United States." It appears, therefore, that the proposed resolution is addressed to the possibility that reduced rates on textile products which are to be made effective September 10, 1955, may result in serious injury or threat of serious injury to the domestic textile industry. The Commission does not consider the institution of an investigation for the purposes of section 7 of the Trade Agreements Extension Act of 1951, as amended, as being timely until a sufficient time has elapsed after the effectuation of a trade-agreement concession to indicate a trend of increasing imports (either actual or relative to domestic production) under a concession rate accompanied by indications of such deterioration or threat of deterioration of the domestic industry so as to justify a belief that such increasing imports are causing or threatening serious injury to a domestic industry within the meaning of section 7. A "threat" in the popular sense of a possible future injury which may or may not take place is not the "threat of serious injury" contemplated by section 7. The latter contemplates the threat which grows out of a trade-agreement concession and the consequent increasing imports (either actual or relative to domestic production) which have run their course for a reasonable period of time following the effective date of such concession.

* * * * * * *

To invoke the escape-clause procedure with respect to textile products on the date on which the duty rates negotiated in the agreement of June 8, 1955, become effective is tantamount to a requirement for a redetermination of what has already been recently determined [by peril point procedure]. Once negotiated trade-agreement rates are made effective and have been in force for a sufficient time, an industry which believes that increased imports (either actual or relative to domestic production) under such rates are causing or threatening serious injury to itself may apply for an escape-clause investigation. Any such application which would be filed on the date the trade-agreement rate becomes effective would, as above indicated, be considered by the Commission as premature.

* * * * * * *

The committee recommends the adoption of the resolution as amended.

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CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law in the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

DISTRICT OF COLUMBIA CODE 47–1601 (e) 50 STATUTE 683

* * * * * * *

(e) Property transferred exclusively for public or municipal purposes, to the United States or the District of Columbia, or exclusively for charitable, educational, or religious purposes [within the District of Columbia, and property transferred to the American National Red Cross], shall be exempt from any and all taxation under the provisions of this section.

O

Calendar No. 872

84TH CONGRESS, 1st Session | SENATE | REPORT No. 865

PROVIDING FOR THE PAYMENT OF COMPENSATION TO OFFICERS AND MEMBERS OF THE METROPOLITAN POLICE FORCE, THE UNITED STATES PARK POLICE FORCE, THE WHITE HOUSE POLICE FORCE, AND THE FIRE DEPARTMENT OF THE DISTRICT OF COLUMBIA, FOR DUTY PERFORMED ON THEIR DAYS OFF, WHEN SUCH DAYS OFF ARE SUSPENDED DURING AN EMERGENCY

JULY 14, 1955.—Ordered to be printed

Mr. BIBLE, from the Committee on the District of Columbia, submitted the following

REPORT

[To accompany S. 2427]

The Committee on the District of Columbia, to whom was referred the bill (S. 2427) to provide for the payment of compensation to officers and members of the Metropolitan Police force, the United States Park Police force, the White House Police force, and the Fire Department of the District of Columbia, for duty performed on their days off, when such days off are suspended during an emergency, after full consideration, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Page 3, line 21, strike all of section 3 and insert in lieu thereof "SEC. 3. This Act shall take effect on July 1, 1955."

The purpose of this bill is to provide for the payment of compensation to officers and members of the Metropolitan Police force, the United States Park Police force, the White House Police force, and the Fire Department of the District of Columbia, when they are required to perform duties on their days off, when such days off are suspended during an emergency. Any officer or member performing such duty shall be entitled to all rights, benefits, and privileges, and be subject to all obligations and duties to which he is entitled or to which he is subject on any regular workday.

The bill, as amended and reported, would take effect retroactively to July 1, 1955, the day on which it was found necessary to declare an emergency and to suspend days off for officers and members of

the Metropolitan Police force due to the current strike of employees of the Capital Transit Co.

On July 6, 1955, Senator Mansfield introduced a companion bill, S. 2421. During the consideration of this legislation by the committee, it was decided to include in the bill as reported, the section contained in S. 2421 providing for the effective date of July 1, 1955.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law in the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

DISTRICT OF COLUMBIA CODE, SECTION 4–904 (64 STAT. 447, 65 STAT. 27, 67 STAT. 76)

That (a) every officer and member of the Metropolitan Police force, the United States Park Police force, and the White House Police force shall be granted two days off in each period of seven days, which shall be in addition to the annual leave and sick leave to which he is entitled by law.

(b) Notwithstanding subsection (a), whenever the Commissioners of the District of Columbia declare that an emergency exists of such a character as to require the continuous service of all officers and members of the Metropolitan Police force, it shall be the duty of the major and superintendent of police to suspend and discontinue the granting of such two days off in seven during the continuation of such emergency.

(c) Notwithstanding subsection (a), whenever the Secretary of the Interior declares that an emergency exists of such a character as to require the continuous service of all officers and members of the United States Park Police force, it shall be the duty of the superintendent of National Capital Parks to suspend and discontinue the granting of such two days off in seven during the continuation of such emergency.

(d) Notwithstanding subsection (a), whenever the Chief of the Secret Service Division finds that an emergency exists of such a character as to require the continuous service of all officers and members of the White House Police force, he shall suspend and discontinue the granting of such two days off in seven during the continuation of such emergency.

(e) For each day a vacancy exists in the personnel strength for which funds, are appropriated by applicable appropriation acts current in any fiscal year in any particular rank of the Metropolitan Police force, the United States Park Police force, or the White House Police force, the major and superintendent of police, the Secretary of the Interior, and the Chief of the Secret Service Division may permit an officer or member of their respective forces of such rank voluntarily to perform duty on any day off granted under this Act. Each such officer or member shall be entitled to receive, in addition to his annual basic salary, compensation at the basic daily rate for each day of duty voluntarily performed under this subsection, such additional compensation to be paid from current appropriations. Any officer or member so volunteering to perform duty on a day off shall be entitled to all rights, benefits, and privileges, and shall be subject to all obligations and duties, to which he is entitled or to which he is subject on any regular workday. Additional compensation paid under this subsection shall not be considered as salary for the purpose of computing retirement compensation or relief payments under section 12 of the Act entitled "An Act making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and seventeen, and for other purposes", approved September 1, 1916, as amended, nor shall such additional compensation be subject to deduction as provided in section 5 of the Act entitled "An Act to fix the salaries of officers and members of the Metropolitan Police force and the Fire Department of the District of Columbia," approved July 1, 1930, as amended.

(f) Whenever the granting of days off has been suspended and discontinued pursuant to this section, each officer and member shall be entitled to receive, in addition to his annual basic salary, compensation at the basic daily rate for each day of duty which

he performs by reason of the suspension and discontinuance of his days off under this section. Any officer or member so performing duty shall be entitled to all rights benefits, and privileges, and shall be subject to all obligations and duties to which he is entitled or to which he is subject on any regular workday. Such compensation shall be treated for the purpose of computing retirement compensation or relief payments, or for deduction, in the same manner as is compensation for duty voluntarily performed under subsection (e) of this section.

(62 Stat. 499)

SEC. 2. (a) The Commissioners of the District of Columbia are authorized and directed to (1) establish a workweek of not more than seventy hours for officers and members of the Fire Department of the District of Columbia on night-platoon duty and of not more than fifty hours for such officers and members on day-platoon duty, and (2) require that the hours of work in each such workweek be performed within a period of five of any seven consecutive days. The two days off duty in each seven-day period to which each officer and member of the Fire Department is entitled under this subsection shall be in addition to his annual leave and sick leave allowed by law.

(b) Notwithstanding the provisions of subsection (a), whenever the Commissioners declare that an emergency exists of such a character as to necessitate the continuous service of all officers and members of the Fire Department, it shall be the duty of the chief engineer of the Fire Department to suspend and discontinue the granting of such two days off in seven during the continuation of such emergency. *Whenever the granting of days off has been suspended and discontinued pursuant to this subsection, each officer and member shall be entitled to receive, in addition to his annual basic salary, compensation at the basic daily rate for each day of duty which he performs by reason of the suspension and discontinuance of his days off under this subsection. Any officer or member so performing duty shall be entitled to all rights, benefits, and privileges, and shall be subject to all obligations and duties, to which he is entitled or to which he is subject on any regular workday. Additional compensation paid under this subsection shall not be considered as salary for the purpose of computing retirement compensation or relief payments under section 12 of the Act entitled "An Act making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and seventeen, and for other purposes", approved September 1, 1916, as amended, nor shall such additional compensation be subject to deduction as provided in section 5 of the Act entitled "An Act to fix the salaries of officers and members of the Metropolitan Police force and the Fire Department of the District of Columbia", approved July 1, 1930, as amended.*

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Calendar No. 873

84TH CONGRESS, 1st Session | SENATE | REPORT No. 866

INCREASING THE SALARIES OF OFFICERS AND MEMBERS OF THE METROPOLITAN POLICE FORCE, AND THE FIRE DEPARTMENT OF THE DISTRICT OF COLUMBIA, THE UNITED STATES PARK POLICE, AND THE WHITE HOUSE POLICE

JULY 14, 1955.—Ordered to be printed

Mr. BIBLE, from the Committee on the District of Columbia, submitted the following

REPORT

[To accompany S. 2428]

The Committee on the District of Columbia, to whom was referred the bill (S. 2428) to increase the salaries of officers and members of the Metropolitan Police force, and the Fire Department, of the District of Columbia, the United States Park Police, the White House Police, and for other purposes, after full consideration, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Page 3, line 1, strike "(d)" and insert in lieu thereof "(c)".

Amend the title to read as follows:

A Bill to increase the salaries of officers and members of the Metropolitan Police force, and the Fire Department of the District of Columbia, the United States Park Police, and the White House Police, and for other purposes.

The purpose of this bill is to increase the salaries of officers and members of the Metropolitan Police force, and the Fire Department of the District of Columbia, the United States Park Police, and the White House Police.

The bill would provide increases in the basic salaries, the special pay increments to which privates are entitled upon assignment, and the amounts of the longevity pay increments that are applicable to the officers and members of the Metropolitan Police force and the Fire Department of the District of Columbia. The proposed increase is approximately 7½ percent of each salary rate or other pay increment.

If enacted into law, the bill would take effect as of the first day of the first pay period which began after February 28, 1955.

Estimated annual cost of proposed salary increase for District of Columbia fire department

Rank	Number in grade	Present salary	Proposed salary	Increase [1]	Estimated cost
Fire chief	1	$12,500	$13,438	$938	$938
Deputy fire chief	3	8,459	9,094	635	1,905
Superintendent of machinery	1	8,459	9,094	635	635
Fire marshal	1	8,459	9,094	635	635
Battalion fire chief	23	7,753	8,335	582	13,386
Assistant superintendent of machinery	1	7,753	8,335	582	582
Deputy fire marshal	1	7,753	8,335	582	582
Captain	52	6,590	7,085	495	25,740
Pilot	4	6,328	6,803	475	1,900
Marine engineer	2	6,328	6,803	475	950
Lieutenant	59	6,009	6,460	451	26,609
Sergeant	93	5,521	5,936	415	38,595
Assistant pilot		5,033	5,416	373	
Assistant marine engineer	2	5,033	5,416	378	756
Inspector	29	4,813	5,174	361	10,469
Private, class 4	667	4,641	4,990	349	232,783
Private, class 3	35	4,378	4,707	329	11,515
Private, class 2	7	4,115	4,424	309	2,163
Private, class 1	93	3,900	4,193	293	27,249
Total	1,074				397,392
Additional compensation:					
Technicians	9	390	420	[2]	200
Chiefs' aids	19	390	420	30	570
Chief radio technician	1	390	420	30	30
Drivers	104	208	224	16	1,664
Chief photographer	1	208	224	16	16
Total					2,480
Additional required for longevity					7,533
Additional required for holidays					8,954
Annual cost, present authorized strength					416,359
Annual cost of increase for retired members					98,913
Total annual cost					515,272

[1] House and Senate versions.
[2] Varies up to $30 per annum.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law in the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

[PUBLIC LAW 74—83D CONGRESS]

[CHAPTER 146—1ST SESSION]

H. R. 3795

AN ACT To adjust the salaries of officers and members of the Metropolitan Police force, the United States Park Police, the White House Police, and the Fire Department of the District of Columbia, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "District of Columbia Police and Firemen's Salary Act of 1953".

The cost of this bill for the Metropolitan Police force and the Fire Department is shown in the accompanying tables, which are made a part of this report. The total cost of the bill may be summarized as follows:

	Annual cost
Metropolitan Police	$978, 966
Fire Department	515, 272
Park Police (District of Columbia share)	41, 669
Total cost to District of Columbia	1, 535, 907
Park Police (United States share)	43, 846
White House Police	66, 551
United States Secret Service	3, 153
Total cost to United States	113, 550
Total cost of bill	1, 649, 457

Estimated annual cost of proposed salary increase for Metropolitan Police Department

Rank	Number in grade	Present salary	Proposed salary	Increase	Estimated cost
Chief of Police	1	$12, 900	$13, 438	$538	$538
Deputy Chief	7	8, 459	9, 094	635	4, 445
Inspector	12	7, 753	8, 335	582	6, 984
Captain	30	6, 590	7, 085	495	14, 850
Special investigator	1	6, 590	7, 085	495	495
Lieutenant	78	6, 009	6, 460	451	35, 178
Sergeant	69	5, 521	5, 936	415	28, 635
Corporal	70	5, 090	5, 472	382	26, 740
Private:					
Class IV	1, 540	4, 641	4, 990	349	537, 460
Class III	87	4, 378	4, 707	329	28, 623
Class II	140	4, 115	4, 424	309	43, 260
Class I	243	3, 900	4, 193	293	71, 199
Total	2, 278				798, 407
Additional compensation:					
Detective sergeant	90	1, 200	1, 290	90	8, 100
Precinct detective	49	465	500	35	1, 715
Probational detective	70	270	291	21	1, 470
Technician class II	32	390	420	30	960
Technician class I	2	208	224	16	32
Motorcycle officer	108	390	420	30	3, 240
Station clerk	60	300	323	23	1, 380
Longevity	1, 854	120	129	9	16, 686
Total					33, 583
Total					831, 990
Additional required for holidays					15, 615
Annual cost, present authorized strength					847, 606
Annual cost of increase for retired members					131, 361
Total annual cost					978, 966

TITLE II—FIRE DEPARTMENT OF THE DISTRICT OF COLUMBIA

SEC. 201. (a) Except as provided in subsection (b) *or (c)*, the annual basic salaries of the officers and members of the Fire Department of the District of Columbia shall be at the rates set forth in the following table:

Fire chief	[$12, 500]	*$13, 438*
Deputy fire chiefs	[8, 459]	*9, 094*
Superintendent of machinery	[8, 459]	*9, 094*
Fire marshal	[8, 459]	*9, 094*
Battalion fire chiefs	[7, 753]	*8, 335*
Assistant superintendent of machinery	[7, 753]	*8, 335*
Deputy fire marshal	[7, 753]	*8, 335*
Captains	[6, 590]	*7, 085*
Pilots	[6, 328]	*6, 803*
Marine engineers	[6, 328]	*6, 803*
Lieutenants	[6, 009]	*6, 460*
Sergeants	[5, 521]	*5, 936*
Assistant pilots	[5, 038]	*5, 416*
Assistant marine engineers	[5, 038]	*5, 416*
Inspectors	[4, 813]	*5, 174*
Private, class 4 (three or more years' service)	[4, 641]	*4, 990*
Private, class 3 (two or more but less than three years' service)	[4, 378]	*4, 707*
Private, class 2 (one or more but less than two years' service)	[4, 115]	*4, 424*
Private, class 1 (less than one year's service)	[3, 900]	*4, 193*

All original appointments of privates shall be made at the annual basic salary of [$3,900] *$4,193* and the first year of service shall be probationary.

[(b) Subject to approval of the Commissioners, the annual basic salary of a private or an inspector of the Fire Department of the District of Columbia shall be increased by an amount not to exceed $390 while he is assigned to duty as a technician.]

(b) The annual basic salary of a private of any class of the Fire Department of the District of Columbia shall be increased by—

(1) $420, while he is assigned to duty as an aide to the Fire Chief or to a deputy or battalion fire chief;

(2) $224, while he is assigned to duty as a regular first driver-operator of a fire department hose wagon, aerial ladder truck, rescue squad, or fire department ambulance;

(3) $420, while he is assigned to duty as a chief radio technician; and

(4) $224, while he is assigned to duty as a chief photographer.

(c) Subject to the approval of the Commissioners, the annual basic salary of a private or an inspector of the Fire Department of the District of Columbia shall be increased by an amount not to exceed $420 while he is assigned to duty as a technician.

SEC. 202. (a) The annual basic salary of each officer and member of the Fire Department in a grade above that of private, class 3, except the Fire Chief, shall be increased by [$120] *$129* at the beginning of the next pay period following each five-year period of continuous service completed in such grade, including service in such grade rendered prior to the effective date of this Act: *Provided*, That in computing service rendered prior to such date by any individual in the grade of private, only service in such grade in excess of three years shall be creditable in determining such increase or increases for any individual assigned to the grade of private, class 4, in the foregoing salary table. For the purpose of this subsection, service shall not be deemed to have been discontinued by reason of any assignment (with an accompanying increase in salary) pursuant to subsection (b) of section 201 of this Act. The annual basic salary of the Fire Chief shall be increased by [$200] *$215* at the beginning of the next pay period following each eighteen-month period of continuous service completed in such grade including service in such grade rendered prior to the effective date of this Act. An increase in basic salary under this subsection shall be known as a "longevity increase".

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TITLE I—METROPOLITAN POLICE FORCE

SEC. 101. (a) Except as provided in subsections (b) or (c), the annual basic salaries of the officers and members of the Metropolitan Police force shall be at the rates set forth in the following table:

Chief of police	[$12, 500]	*$13, 438*
Deputy chiefs	[8, 459]	*9, 094*
Inspectors	[7, 753]	*8, 335*
Captains	[6, 590]	*7, 085*
Lieutenants	[6, 009]	*6, 460*
Sergeants	[5, 521]	*5, 936*
Corporals	[5, 090]	*5, 472*
Private, class 4 (three or more years' service)	[4, 641]	*4, 990*
Private, class 3 (two or more but less than three years' service)	[4, 378]	*4, 707*
Private, class 2 (one or more but less than two years' service)	[4, 115]	*4, 424*
Private, class 1 (less than one year's service)	[3, 900]	*4, 193*

All original appointments of privates shall be made at the annual basic salary of [$3,900] *$4,193* and the first year of service shall be probationary.

(b) The annual basic salary of a private of any class of the force shall be increased by—

(1) [$1,200] *$1,290*, while he is assigned to duty as a detective sergeant;
(2) [$465] *$500*, while he is assigned to duty as a precinct detective;
(3) [$300] *$323*, while he is assigned to duty as a station clerk;
(4) [$270] *$291*, while he is assigned to duty as a probational detective; or
(5) [$390] *$420*, while he is assigned to duty as a motorcycle officer.

Paragraph (5) of this subsection shall apply to any officer below the grade of lieutenant.

(c) Subject to approval of the Commissioners, the annual basic salary of a private of the Metropolitan Police force shall be increased by an amount not to exceed [$390] *$420* while he is assigned to duty as a technician.

SEC. 102. (a) The annual basic salary of each officer and member of the Metropolitan Police force in a grade above that of private, class 3, except the Chief of Police, shall be increased by [$120] *$129* at the beginning of the next pay period following each five-year period of continuous service completed in such grade, including service in such grade rendered prior to the effective date of this Act: *Provided*, That in computing service rendered prior to such date by any individual in the grade of private, only service in such grade in excess of three years shall be creditable in determining such increase or increases for any individual assigned to the grade of private, class 4, in the foregoing salary table. The annual basic salary of the Chief of Police shall be increased by [$200] *$215* at the beginning of the next pay period following each eighteen-month period of continuous service completed in such grade including service in such grade rendered prior to the effective date of this Act. For the purpose of this subsection, service shall not be deemed to have been discontinued by reason of any assignment (with an accompanying increase in basic salary) pursuant to subsection (b) or subsection (c) of section 101 of this Act. An increase in basic salary under this subsection shall be known as a "longevity increase".

(b) Any officer or member who is promoted to a position in a higher grade in the foregoing salary table who is receiving one or more longevity increases under subsection (a) of this section, and whose basic salary, as increased by such longevity increases, exceeds the scheduled rate for such higher grade, shall, upon promotion, be entitled to the basic salary of such higher grade plus so many equivalent longevity increases as may be necessary to make his salary in such higher grade at least equal the salary he received before promotion, including longevity increases.

(c) Whenever any officer or member is demoted from any grade to a lower grade and such officer or member prior to such demotion was receiving one or more longevity increases, the Commissioners, in their discretion, may in demoting such officer or member fix his annual basic salary so as to exclude all such earned longevity increases or to include one or more of such earned longevity increases.

(d) The Chief of Police shall receive no more than four longevity increases and no other officer or member shall receive more than five longevity increases with respect to service rendered in any one grade.

(e) No officer or member shall be entitled to a longevity increase for a five-year period of service unless he has maintained a rating of satisfactory or better for such period.

Calendar No. 874

84TH CONGRESS, 1st Session } SENATE { REPORT No. 867

ALASKA INTERNATIONAL RAIL AND HIGHWAY COMMISSION

JULY 14, 1955.—Ordered to be printed

Mr. GREEN, from the Committee on Foreign Relations, submitted the following

REPORT

[To accompany S. 985]

The Committee on Foreign Relations, having had under consideration the bill (S. 985) to establish an Alaska International Rail and Highway Commission, report the bill favorably and recommend that it do pass.

1. MAIN PURPOSE OF THE BILL

The main purpose of the bill is to provide for a thorough and complete study of the most feasible and direct routes of rail and highway transportation between the United States and Alaska including feeder routes, and of the economic and military advantages of additional rail and highway facilities. An appropriation of $75,000 is authorized.

2. WHAT THE BILL DOES

The bill would establish an Alaska International Rail and Highway Commission to be composed of 11 members appointed by the President, as follows:

1. Five Members of Congress, not more than three of whom shall be of the same political party.

2. Three members from the executive branch, including 1 from the Army Corps of Engineers, 1 from the Department of the Interior, and 1 from the Department of State.

3. Three members from the public at large, including 1 resident of Alaska and 1 resident of the Pacific Northwest (sec. 1 (a)).

Members of the Commission are to serve without compensation but shall be reimbursed for travel, subsistence, and other necessary expenses on official business (sec. 6).

The Commission is directed to make a thorough and complete study of—

is of the opinion, however, that limiting consideration to the purely military aspects is taking much too narrow a view of the matter.

Alaska is an immense Territory with enormous natural resources which are still largely undeveloped. It seems to the committee obvious that additional rail and/or highway facilities would greatly stimulate the economic development of Alaska with commensurate benefits to the United States in general and to the Pacific Northwest in particular. At the present time direct communication between the two areas is limited, perhaps more than it should be, to air and steamship travel.

The committee therefore believes that the studies provided for by S. 985 are amply justified on economic grounds alone, without reference to military considerations.

The committee emphasizes, however, that S. 985 does not itself provide for construction of railroads or highways nor does it in any way commit the Congress to underwrite construction in the future or to approve the recommendations of the Commission.

Although the lack of transportation is one of the limiting factors on Alaskan economic development, the committee recognizes that there are great difficulties involved in providing additional overland routes. Chief among these difficulties are terrain and climate. Further, the territory through which the routes would necessarily pass is largely unsettled.

For these reasons, the cost involved may be disproportionate to the benefits. At the present time, however, no one is in a position to make a sound judgment as to whether this is actually the case or as to whether the benefits would far exceed the costs.

It is the purpose of S. 985 to provide the information needed to make that determination. The initiation of the necessary studies in no way prejudges the results of those studies, nor commits the Congress to any particular course of action in the light of those results.

5. CONCLUSION

For the reasons set forth above, the committee believes that it is well worth while to invest $75,000 to determine the feasibility of the projects involved. The committee therefore recommends favorable action on the bill.

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1. The economic and military advantages of additional rail and highway facilities connecting the continental United States with central Alaska.

2. The most feasible and direct rail and highway routes between the United States and Alaska, in relation to economic benefits.

3. The most feasible feeder rail and highway routes connecting coastal ports and cities with the trunk facilities determined most feasible and beneficial by the Commission (sec. 2).

The Commission is also directed to give particular attention to the route utilizing the Rocky Mountain trench and to take into consideration the proximity of routes to suitable sites for airfields (sec. 2.)

The Commission is given the usual powers to perform the functions necessary to carry out its duties—such as the employment of personnel and the holding of hearings—and is authorized to use existing facilities and information of established government agencies (sec. 4). It is also authorized to cooperate with Canadian officials (sec 3).

Within 2 years after enactment of the bill, the Commission is to send to Congress its final report, which is to include estimates of the cost of construction, maintenance, and operation of rail and highway facilities along the recommended routes and estimates of the economic benefits expected to accrue to the United States, Canada, and Alaska (sec. 7).

3. BACKGROUND AND COMMITTEE ACTION

In 1942 the Corps of Engineers surveyed a route for a railroad through the Rocky Mountain trench from Prince George, British Columbia, to Kobe, Alaska. The survey, which was made for military purposes only, indicated that a railroad along such a route was feasible and that it would cost $112 million. Under the stress of war, the project was abandoned and the Alcan Highway, farther inland, was built instead.

In 1949 Congress authorized the President to enter into an agreement with Canada for a location survey for a railroad connecting Prince George and Fairbanks (Public Law 391, 81st Cong., 1st sess., approved October 26, 1949). The Korean war intervened, however, and again the military aspects of the project received major emphasis. The Permanent Joint Board on Defense, United States-Canada, reported in March 1951 that "sufficient military justification does not exist at the present time and under present circumstances for the construction of the proposed railroad to Alaska" and that "for military reasons alone, further route surveys, economic surveys, and similar investigations would not be warranted at this time."

The pending bill, S. 985, which is similar to Senate Joint Resolution 46 of the 83d Congress, was introduced February 8, 1955, by Senator Magnuson for himself and Senators Jackson, Malone, Mansfield, Morse, Murray, Neuberger, and Welker. It was considered by the Foreign Relations Committee in executive session July 12 at which time the committee heard testimony from Senator Magnuson and ordered the bill favorably reported.

4. JUSTIFICATION FOR THE BILL

The committee does not dispute the findings of the appropriate military authorities that additional land transportation facilities to Alaska are not justified on military grounds alone. The committee

Calendar No. 875

84TH CONGRESS, 1st Session } SENATE { REPORT No. 868

RELATIVE TO THE UNITED NATIONS ESTABLISHING A PROCEDURE FOR COLLECTING AND RELEASING RADIOLOGICAL INFORMATION

JULY 14, 1955.—Ordered to be printed

Mr. GREEN, from the Committee on Foreign Relations, submitted the following

REPORT

[To accompany S. Res. 134]

The Committee on Foreign Relations, having had under consideration Senate Concurrent Resolution 22, relating to the effects of nuclear explosions on human health and safety, reports in lieu thereof an original Senate resolution (S. Res. 134) and recommends that it do pass.

1. MAIN PURPOSE OF THE RESOLUTION

The main purpose of the resolution is to express the Senate's interest in studies of the effect of nuclear radiation on human health and safety and to support efforts to establish United Nations procedures for assembling information resulting from such studies.

Specifically, the resolution "endorses efforts of our chief delegate to the United Nations to take appropriate steps to work to establish within the United Nations procedures to receive, assemble and report on radiological information collected by the various States with particular emphasis on radiation effects on human health and safety."

2. BACKGROUND

As set forth in the preamble, the resolution is based on the facts that:

1. The number of nuclear explosions, set off by various nations, is increasing and is more likely to continue to increase than to decrease.

2. Radioactivity released by such explosions can have serious deleterious effects, both immediate and long-range, on human beings and other living organisms.

3. Existing knowledge of the effects of such explosions on living organisms is very incomplete.

Senate Concurrent Resolution 22 was introduced April 13, 1955, by Senator Payne for himself and Senators Barrett, Beall, Capehart, Cotton, Duff, Douglas, Flanders, Fulbright, Green, Humphrey, Ives, Kefauver, Kilgore, Langer, Mansfield, McNamara, Monroney, Morse, Murray, Neely, Neuberger, Potter, Robertson, Sparkman, Stennis, Symington, and Welker. It requested the President to "instruct our chief delegate to the United Nations to take whatever steps may be necessary to propose and urge the formation of an international scientific commission within the United Nations to study and determine the effects on living organisms of radioactivity released by nuclear explosions."

Subsequently, on June 22, during the anniversary meeting of the U. N. General Assembly in San Francisco, Ambassador Henry Cabot Lodge, Jr., Chief United States Delegate to the U. N., issued a statement expressing the belief of the United States that the next General Assembly "should establish a procedure to receive and assemble radiological information collected by the various states, as well as the results of national studies of radiation effects on human health and safety."

On July 12, this Senate committee considered the matter in executive session with Senator Payne who suggested that a Senate resolution be reported instead of a concurrent resolution so as to obviate the need for House action. Senator Payne also suggested changes in the substantive part of the resolution to bring it into line with the Lodge proposal.

3. CONCLUSION

The committee believes that action of the sort proposed in the resolution here reported would be helpful in collating and disseminating such information as is available on the problem of atomic fallout. The resolution, which is approved by the Department of State, would put the Senate on record in support of the efforts of the executive branch to this end, and the committee recommends that the Senate take favorable action.

In view of recent developments in the field of atomic energy there is no question about the importance of the problem covered by this resolution. The committee believes the United States should cooperate with other countries in setting up proper procedures so that available data may be assembled and the problem better understood.

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Calendar No. 876

84TH CONGRESS, 1st Session | SENATE | REPORT No. 869

PROVIDING ASSISTANCE TO CERTAIN NON-FEDERAL INSTITUTIONS FOR CONSTRUCTION OF FACILITIES FOR RESEARCH IN CRIPPLING AND KILLING DISEASES SUCH AS CANCER, HEART DISEASE, POLIOMYELITIS, NERVOUS DISORDERS, MENTAL ILLNESS, ARTHRITIS AND RHEUMATISM, BLINDNESS, CEREBRAL PALSY, TUBERCULOSIS, MULTIPLE SCLEROSIS, EPILEPSY, CYSTIC FIBROSIS, AND MUSCULAR DYSTROPHY.

JULY 14, 1955.—Ordered to be printed

Mr. HILL, from the Committee on Labor and Public Welfare, submitted the following

REPORT

[To accompany S. 849]

The Committee on Labor and Public Welfare, to whom was referred the bill (S. 849) to provide assistance to certain non-Federal institutions for construction of facilities for research in crippling and killing diseases, and for other purposes, having considered the same report favorably thereon with amendments and unanimously recommend that the bill do pass.

GENERAL STATEMENT

In response to demonstrated needs, the Congress has created the National Institutes of Health, seven separate national institutes for research into the causes of and cures for various categories of killing and crippling diseases, and has provided funds for the training of research workers. By so doing and by regularly appropriating funds for these purposes over the last decade, the Congress has expressed its belief that it is sound public policy to invest at least a slight portion of the immense sums we spend merely to care for illness on trying to find ways to prevent or to cure it.

However, actual experience in the making of research grants through the National Institutes of Health has disclosed a serious deficiency which is not only holding up already planned and much-needed research projects but which threatens the future of medical research insofar as it is serving to block the entry of young scientists into this field. Experience has shown that often the most potentially gifted

men in the field of research, men who could and would devote their lives and their talents to the attempt to conquer diseases, men who had been chosen by the advisory councils of our National Institutes of Health as admirably qualified to carry on essential research projects, are unable to make their services available to the people of America simply because they do not have the laboratories, facilities, and equipment with which to do the work the Nation and the Congress very much want to have done.

We have, of course, provided excellent facilities and equipment, chiefly at the National Institutes of Health, were men of science employed by our Government have been and are carrying on promising research projects. But we neither can nor should we try to concentrate all medical research in Federal laboratories. Hundreds of established leaders in medical research and thousands of young scientists eager to work with them if it were possible are identified with non-Federal hospitals, universities, and other nonprofit research institutions scattered throughout the Nation. If we are to enlist their services in our behalf, we must help build the laboratories and other essential facilities where they and their patients are.

That, in essence, is the major purpose of this bill: to provide assistance to non-Federal public and other nonprofit institutions for the construction of facilities for research in crippling and killing diseases such as cancer, heart disease, poliomyelitis, nervous disorders, mental illness, arthritis and rheumatism, blindness, cerebral palsy, tuberculosis, multiple sclerosis, epilepsy, cystic fibrosis, and muscular dystrophy.

Summary of Bill

S. 849 authorizes the appropriation of not to exceed $30 million a year for each of the next 3 years to be used for grants to aid in the construction of non-Federal research facilities. Grants may be made to accredited public and other nonprofit universities; to hospitals; to schools of medicine, dentistry, osteopathy and optometry; to nonprofit laboratories and to other nonprofit institutions willing and competent to undertake needed research projects. In order to stimulate local governmental and private interest and participation, a Federal grant may not amount to more than half the cost of any project and every application will have to be approved by the National Council on Medical Research Facilities which is provided for in the bill and by the Surgeon General of the United States Public Health Service.

The committee believes that it is sound public policy to stimulate the development of research as equally as possible throughout the country. In light of the fact that this cannot well be done on a State-by-State basis since many institutions serve the people of an entire region rather than of a single State and since the development of duplicate research facilities in every State would be extremely wasteful, provision is made in the bill for allocating annual appropriations among the four geographical regions into which the States and Territories have been grouped in the bill. The delineation of regions in the bill is such as to include in each region an approximately equal number of potential medical research scientists and is in turn based on the output of such personnel by schools of medicine and other institutions of higher learning and advanced training in each region.

The following table, showing how grants-in-aid could be made if the entire $30 million authorized in the bill was actually appropriated for each of the 3 years provided for in the bill, illustrates the application of this provision:

Region	I	II	III	IV
Past grants	$7,520,892	$3,751,733	$6,226,338	$4,863,037
1st year	6,069,608	8,438,767	7,364,162	8,127,463
2d year	7,100,000	8,100,000	7,100,000	7,700,000
3d year	7,400,000	7,800,000	7,400,000	7,400,000
Total grants end of 3d year	28,090,500	28,090,500	28,090,500	28,090,500

Existing Authorization

To properly evaluate this bill it is most important to realize that under existing law the Surgeon General already has authority, subject only to the amount of money available, to make grants for the construction and equipping of such research facilities as are provided for in S. 849. The Surgeon General's existing authority is stated in a parenthetical clause appearing in the section of the Public Health Service Act which authorizes him to make research grants and to establish and maintain traineeships. The clause reads "(including grants-in-aid for drawing plans, erection of buildings, and acquisition of land therefor)".[1]

Under this authority medical research construction grants totaling over $22 million were made during the period from 1948 to 1950. With the outbreak of hostilities in Korea, when it became imperative that essential construction materials be reserved for military purposes, neither appropriations nor further authorizations for grants for the construction of medical research facilities were available. After Korea, the Public Health Service received many well-justified requests for such construction funds, and the National Institutes of Health were forced to turn down requests for grants to further quite important research projects because the research could not be undertaken unless funds for construction and equipment were also made available.

These requests were made known to the Senate's Committee on Appropriations and were the subject of a great deal of deliberation by that body. As Senator Bridges, the former chairman and now ranking minority member of that committee, stated in testifying in favor of this bill (S. 849):

> It is true that grants for research construction are authorized in sections 412 (d) and 433 (a) of the Public Health Service Act. * * * Now the authorization obviously received little if any attention prior to the enactment of the law under which we made the appropriations—no specific sum is authorized and for no specific period; no matching requirement is set out, nor is there any formula for an equitable geographic distribution of the grant funds.
>
> The members of the [Appropriations] Committee felt that there should be some special attention given and some definite particular authorization made.
>
> Now, I mention these particular points because, in our consideration in the Committee on Appropriations, members, one after another, clearly indicated that, until an authorization protected by various such provisions was enacted, they felt that they could not conscientiously support the appropriation of funds; there was little likelihood of approval of funds for this worthwhile purpose.

[1] Sec. 433 (a) of Public Law 692, 81st Cong., ch. 714, 2d sess. (Note.—Section 412 of the Public Health Service Act relating to the National Heart Institute, in subsection D, similarly authorizes construction grants.)

These are the reasons why, although the Surgeon General has authority to make grants for needed medical research facilities, he is currently without funds with which to make such grants. These were the reasons which prompted the Senate's Committee on Appropriations, whose members have shown great interest in and have consistently promoted the partnership of Federal Government, local governmental units, and private citizens in a common endeavor to find the causes of and cures for killing and maiming diseases, to state, in its report of June 22, 1954, that—

> The committee urges the Committee on Labor and Public Welfare to investigate this problem to determine the public policy. If such a program is adopted it is the view of this committee that it should be put on a matching basis and the grants be authorized according to formula.[1]

These are the reasons why Senator Hill, chairman of the Subcommittee on Appropriations for Labor, Health, Education and Welfare, as well as of the Committee on Labor and Public Welfare, and Senator Bridges joined in sponsoring S. 849. And these are the reasons why, in response to the request of the Senate's Committee on Appropriations, the Committee on Labor and Public Welfare, after extensive hearings and thorough deliberation unanimously recommended the bill and urges its prompt passage.

TODAY'S PROBLEM—TOMORROW'S PROMISE

The underlying reason for our present-day concern with the need for medical research facilities is a simple one. It is found in the fact that the medical research of today cannot be carried on by the dedicated scientist working alone in his attic or in a basement room; with materials purchased from the neighborhood hardware store; with funds borrowed from his wife's pin money. It is still true that such men might well produce ideas of consequence. But to develop such ideas, to realize their full potentials, to test them on thousands of animals and on hundreds of people, to transmute them into products or techniques which can be applied to millions of people—to do these things in a few years rather than over many decades—requires a multidisciplinary approach through which many men trained in several different sciences and with a variety of different skills may work effectively together toward a common goal. It also requires facilities and equipment of almost unbelievable variety and of considerable costliness. Materials and equipment ranging from unseeable bits of matter smaller than the atom to cyclotrons and giant centrifuges. And it requires buildings designed to safely and efficiently house these men of research, their experimental animals and their material and equipment; all in close proximity to their patients and to the jobs which enable them to undertake research.

Inability to acquire such facilities and such equipment has created the greatest bottleneck and is today's most serious problem in medical research. The nature and impact of that problem and the great promise which the near future holds for all of us, should we succeed in solving that problem, is perhaps best expressed in the words of the men of medicine and science who testified before the Subcommittee on Health and, in the strongest possible terms, urged us to pass this bill.

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[1] S. Rept. No. 1623, 83d Cong., 2d sess., p. 10.

These men, from whose testimony we shall quote, came from every part of the country. Each of them is a man of great repute, known brilliance, and integrity. Most of them are outstanding members of the American Medical Association. Every one of them and each of the institutions they are associated with is unquestionably ranked among the leaders in the field of research on cancer, heart disease, mental illness, neurological diseases and blindness, arthritis and metabolic, diseases or another killer or crippler of mankind.

Here, in part, is what they told the subcommittee.

Dr. Robert P. Knight, medical director of the Austen Riggs Foundation in Stockbridge, Mass., past president of the American Psychoanalytic Association and clinical professor of psychiatry at Yale University School of Medicine, is trying to do research in a problem which now costs the American citizen over $1 billion a year in tax funds alone, the problem of mental illness. Dr. Knight told us that the research facilities and equipment at his center are in such bad shape that it is difficult to attract and hold trained men and almost impossible to bring in younger scientists for training in research work. He showed us how and why the men who should be doing or directing the research which might prevent or cure countless cases of mental illness and save millions of dollars are forced to spend their time. Instead of being the doctors or psychiatrists or research workers they are trained to be, they are spending a great part of their time as professional beggars trying, as individuals, to raise the funds needed to do work the entire Nation wants and needs done. Dr. Knight told us of how for years now, one of America's greatest directors of research in mental illness, Dr. William Menninger of the Menninger Foundation in Topeka, Kans., has had to devote more than half his time not to research but to fund raising. And Dr. Knight pointed out that, although more than 50 out of every 100 hospital beds in the country are occupied by victims of mental illness, yet only 4 percent of all medical research funds are devoted to attempts to find causes and cures for afflictions of the mind.

Dr. Ralph J. Dorfman, who has served on the science faculties of the University of Chicago, the University of Louisiana, Yale, and Western Reserve, and who is now associate director of the Worcester Foundation for Experimental Biology, told us of how his staff is trying to work in an old basement wine cellar and an abandoned coachman's house. Trying to work on diabetes and such unpleasant and costly diseases as arteriosclerosis, kidney diseases, gangrene of the extremities, blindness, and such diabetic complications of pregnancy as frequently cause the death of newborn children and endanger the life of the mother. Dr. Dorfman told us that diabetes mellitus, on which he is concentrating his efforts, currently afflicts some 2 million people a year and costs the Veterans' Administration alone approximately $10 million a year. He told us too that because of research work already done, diabetes mellitus is a disease about which we know a great deal and which we should be able to control in the foreseeable future. What we need for success in this endeavor is four walls and a roof. And Dr. Dorfman assured us that an investment in such construction would result in a tremendous saving to the Nation.

Dr. R. Lee Clark, Jr., director and surgeon in chief of the M. D. Anderson Hospital and Tumor Institute at Houston, Tex., spoke eloquently and pointedly as regards the need for research facilities in

formula for allocating funds under this legislation considerable thought and discussed it with his colleagues. His conclusion was that—

it is a rather thoughtfully planned formula * * * the best that can be arrived at under the circumstances * * * it is balanced for medical schools, it is balanced for population * * * I have no fault to find with it.

Dr. Gardner Murphy, director of research for the Menninger Foundation at Topeka, Kans., also endorsing passage of the bill, pointed out that we spend less in a year on research designed to cure mental illness than we spend every week just to feed and house mental patients. He reminded us too that if we act to help provide facilities for research on mental illness we shall be striking not just at insanity but also at those socially and economically costly maladjustments which are reflected in alcoholism, in juvenile delinquency, in sexual aberrations, failure of nerve, fears, doubts, anxieties, self-hate and the hatred of one's fellows. He, too, assured us that any investment we might make in research facilities would be returned to the Treasury many, many times over.

Dr. Sidney Farber, director of research, at the Children's Cancer Research Foundation in Boston, told us of three different antibiotics showing anticancer effects which have been discovered in the last 2 or 3 years in different institutions. If we are really serious about our desire to control cancer, those discoveries alone make mandatory the manufacture and study of hundreds of antibiotics to disclose their relative anticancer properties. This alone creates a tremendous problem in laboratory facilities and in clinical research centers.

Addressing himself to the question of whether Federal grants supplanted or stimulated private contributions, Dr. Farber not only agreed with all other witnesses that such grants acted as a great stimulus to others but also gave a most illuminating example of this process and of its results. He told of a $300,000 grant made to the Children's Cancer Research Foundation by the National Institutes of Health some years ago. With that seed money to go on, the trustees of the foundation went out and raised $1,600,000 more.

It was in the building thus created that Dr. John Enders conducted that epochal research which resulted in the discovery of a method of growing the poliomyelitis virus in tissue culture and won for Dr. Enders the Nobel prize. It was this discovery which made possible first the mass testing and now the mass immunization program with Salk vaccine. As Dr. Farber told us, because of the construction of this one building, as the result of a Federal grant, "it is conservative to say that Dr. Enders' work was brought to fruition some 2 to 3 years ahead of the time it would have taken in his former antiquated and totally inadequate quarters.

Dr. Hans Waine, medical director of the New England chapter of the Arthritis and Rheumatism Foundation informed us that 3½ million cases of arthritis and rheumatism are under treatment here in the United States each year and that 60 percent of them are severe enough to become bed cases. For every thousand of our people in middle life, 25 are incapacitated by arthritis.

Dr. Waine told us of major advances against this crippling disease made through research in recent years. Some 50,000 children a year are affected by inflammatory rheumatism. But, Dr. Waine told us:

It is possible today, and again alone through research, to prevent the original attack of rheumatic fever, so that when these newer methods which have, within

the field of cancer and described new and promising research leads now available. Perhaps more important to the question now before the Senate, however, was his explanation of how a grant of $300,000 from the National Cancer Institute and a grant of $2 million from Hill-Burton funds so stimulated local interest that they have resulted in the construction of a $10 million hospital-research center supported since its opening by more than $25 million of State funds. His testimony on this point, which was supported by all our other witnesses, dramatically proves a point well known to members of the committee and important to the Senate in its deliberations. The point is that the use of Federal funds to promote medical research does not result in a supplanting or diminution of the amounts made available for that purpose by State and local governments. Quite the contrary. Every such grant by the Federal Government has served as a stimulus to even larger contributions from other sources. In the case of this great cancer center serving the entire Southwest, Federal grants have been matched by more than 15 to 1.

Dr. Cornelius Rhoads, scientific director of the oldest cancer hospital in the United States, the Memorial Center for Cancer and Allied Diseases in New York, and director of the Sloan-Kettering Institute for Cancer Research, gave us three succinctly stated reasons for his enthusiastic endorsement of this bill. He said—

> One: It is the best possible investment in terms of the economic as well as the social welfare of this country.
>
> Two: It is an absolute necessity that these facilities be made available if hundreds of thousands of lives are not to be needlessly lost.
>
> And, thirdly, if they are made available, this wastage of life can be prevented, from all the indications presently before us.

Dr. Rhoads went on to tell us that cancer is costing us from 3 to 10 billion dollars a year directly and indirectly and explained how a $250,000 laboratory has saved nearly a thousand lives over the last 5 years in his institution alone. Two hundred and fifty dollars for a human life.

Dr. Rhoads warned the committee that despite the great gains we have made in recent years in the treatment of cancer, we are, as a matter of fact, losing ground steadily. Because of a pandemic of lung cancer and because of the growing age of our population, the death rate from cancer is rising steadily, and unless it is checked 1 out of every 4 of us will die of this dread disease. Yet we should be able to halt and to reverse this trend. We have most promising new leads to follow up on. Remarkable new discoveries have been made. We have many young scientists trained in new methods of approaching the solution of the cancer problem—trained, ironically enough, in part with Federal funds—but, as Dr. Rhoads put it, "We simply do not have the space to put them to work."

Dr. Rhoads' detailed testimony as regards new departures will give new hope to any who doubt our ability to eventually control cancer.[3] But he made it clear that if we are to realize those hopes we must take steps to assure the availability of research facilities as promptly as possible.

In concluding our summation of Dr. Rhoads' testimony, we would also point out that he advised the committee that he had given the

[3] Set forth in full on p. 60, hearings before the Subcommittee on Health of the Committee on Labor and Public Welfare, U. S. Senate, 84th Cong., 1st sess. on S. 849, March 31, April 1 and 13, 1955.

point, he told your committee the result of just one Federal research grant made in the field of blindness. That grant of $41,000 resulted in the discovery of the cause of a condition which was producing blindness in prematurely born children. Eight thousand children were blinded by it in a decade. Their special care and training through their average life span will cost $100,000 each or a total of $800 million. Had that $41,000 worth of research been undertaken 10 years earlier we would have saved that $800 million. But the grant was made, the research was successful and for that $41,000 we will, through each future decade, save the sight of 8,000 children and save ourselves eight hundred millions of dollars every 10 years—all this for 1 investment of $41,000.

Such was the testimony the committee received from leading doctors in the field of medical research. In the opinion of the committee they more than proved the existence of a national need for the construction and equipping of medical research facilities throughout the country. Moreover they proved to our satisfaction that the use of Federal funds to help build such facilities would represent both sound public policy and a wise investment. In effect, they were as one in saying and in proving "Give us the laboratories and we will not only return these funds a thousandfold but we will give you life as well."

Now, it might be said that those witnesses were identified with institutions which, if S. 849 is enacted into law, will be applying for research construction funds under its terms. This is undoubtedly true. Lest this be interpreted to mean that their testimony might be self-serving in that they and their institutions may profit from passage of the bill, the committee would like to point out that just the opposite is true. These men as individuals and the institutions with which they are identified could earn great sums if they were to forget about research and devote all their time and attention to merely caring for paying patients. When, instead, they urge us to undertake to finance some of the basic costs of research and when they agree to help carry out research projects in which the Nation has a vital interest, they are in fact offering to do for us what we need done and at great and continuing cost to themselves. The committee regards those witnesses as selfless, dedicated, patriotic men.

In addition to these men of medical research, the committee received testimony from individuals who were not themselves engaged in research but who represented voluntary agencies concerned with the problems which beset our people because of the gravity and extent of the questions as yet unresolved in the conflict between man and disease.

One of these witnesses, an outstanding figure in both the world of business and of philanthropy, was Mr. James S. Adams, a partner in the investment banking firm of Lazard Freres & Co., a former finance director of the Republican National Committee and a member of the board of directors of the American Cancer Society since 1945. Mr. Adams told us that there are now 700,000 patients suffering from cancer in the United States at any one time; that there are half a million new cases each year; that about 230,000 of our fellow citizens die from this disease annually.

Perhaps more important in terms of this particular bill, Mr. Adams stated that of those who get cancer perhaps a quarter are now cured and that another 25 percent could be cured by prompt and effective

the last years in the case of rheumatic fever, been found by research, become applicable on a larger scale, and they are applicable, rheumatic fever will also cease to be a hazard in public health.

Gout, the most painful form of arthritis, afflicts approximately 350,000 people. But here, too, Dr. Waine told us:

Thanks to research alone, which has developed new drugs, gout in just a few years, when this newer knowledge will be applied, will be a disease completely controlled. While we do not have a cure, it will be as good as a cure to any patient.

In like manner, in recent years medically infectious arthritis has been driven back. Fifteen years ago ten in every hundred arthritic patients suffered from it. Today, Dr. Waine told us, the tally is two in a thousand.

In these three important forms of arthritis remarkable progress has been achieved. Yet much much more can and should be done. One reason why it may not be done unless we act to meet the dire need for facilities, is that, in Dr. Waine's words—

in the field of arthritis and rheumatic diseases, advances that we may expect to make depend literally exclusively on the application of half a dozen or so of techniques, modern techniques, such as the use of tissue culture, the use of tracer substances, labeled substances, radioactive materials, the use of electronic microscopic examinations, techniques which have only become available within, let us say, a span of the last 10 years, and for which no previous facilities existed.

Dr. Louis N. Katz, director of cardiovascular research at the Michael Reece Hospital in Chicago and past president of the American Heart Society, the American Physiological Society and the Chicago Society for Internal Medicine expressed himself with deep emotion and penetrating logic in his exposition of the need for this legislation from the point of view of those whose major concern is with the growing millions whose greatest danger is heart disease. He too described potentially valuable research projects on stroke and on hardening of the arteries which are not being carried out solely because the space in which to house men and equipment is not available. And Dr. Katz agreed with his colleagues in insisting that by investing in research facilities, the Government will save itself countless dollars as well as save our people countless heartaches and unnecessary deaths.

Dr. Cornelius Traeger, medical director of the National Multiple Sclerosis Society and Cochairman of the National Committee for Research into Neurological Diseases told us of the cost to society occasioned by such neurological conditions as cerebral palsy, epilepsy, poliomyelitis, multiple sclerosis, muscular dystrophy, cerebral vascular disease and blindness. He explained that 20 million people in the United States are afflicted by neurological and sensory disorders and that half of them are gravely disabled.

Those diseases include two which are the third most common cause of death; their victims represent the largest group of those totally removed from the social and economic scene; they are responsible for 46 percent of those receiving public assistance who have endured their disabilities for 10 years or more. Most of these diseases are diseases for which there is no known cause and for which there is today no cure. Yet these are diseases in which but a minimal amount of research is currently underway, Facilities for research in this field are almost totally lacking. Yet it is a field in which the research dollar will pay great dividends, Dr. Traeger declared. To illustrate this

diagnosis and treatment. Hope for the other 50 percent, hope for these other millions, Mr. Adams said, "must come and may only come from our research laboratories." That we desperately need to build, equip, staff, and maintain such laboratories is obvious from Mr. Adams' further statement that—

> The prognosis for the future is startling. If present trends continue, it is estimated that 1 out of 4 living Americans—that is over 40 million people—will be struck by cancer before they die.

If this is true—and independent checks by the committee's staff indicate that all of Mr. Adams' figures are accurate—the committee believes that we are undoubtedly confronted by a grave emergency: In no war in which this Nation has participated to date have we ever been threatened with the loss of 1 in 4 of our people. Even if misery and unbearable pain, broken families and death meant nothing to us—though they mean more than all else—we would be derelict in our duty if we refused to act to help solve a problem which costs our United States over $12 billion a year in lost goods and services and which costs the people of America for treatment alone between 300 million and 400 million dollars annually.

Such was the testimony given us by a level-headed, outstanding man in the world of finance whose probity cannot be questioned and whose concern with the details of governmental fiscal policy is a matter of public record. Mr. Adams also told us that his experience in connection with the American Cancer Society shows that for every dollar of Federal funds we may appropriate should this bill become law, we may expect to see at least $6 contributed for the same purposes from other sources. And Mr. Adams advised the committee that—

> the 7 national advisory councils of the 7 National Institutes of Health, each composed of 6 laymen and 6 doctors and scientists have unanimously endorsed this construction program. Each has pointed out that their own program is seriously held up without the facilities this bill would provide.

Among other witnesses urging passage of S. 849 were representatives of the American Dental Association, the American Psychiatric Association, the American Optometric Association, the Delegates from Alaska and Hawaii, and the Resident Commissioner of Puerto Rico.

It was on the basis of such compelling testimony, and such proof of a grave and urgent national need that the committee, agreeing with the Committee on Appropriations as to the desirability of establishing orderly procedures, assuring equitable geographic distribution of allocations, and requiring matching funds, unanimously agreed to report S. 849 to the Congress with the recommendation that it do pass.

Section by Section Analysis

SECTION 1

Section 1 of the bill provides that it may be cited as the "Medical Research Act of 1955."

SECTION 2

Section 2 of the bill would amend the Public Health Service Act by adding a new "Title VI—Medical Research Facilities" and, under that title, new sections 701 through 706.

Title VI, section 701

Section 701 is a declaration of policy which lists the various reasons why the committee decided it to be sound public policy for the Federal Government to aid in the construction of nonprofit research facilities.

Title VI, section 702

Section 702 sets forth the purpose of the new title VI as being to provide for grants-in-aid to public and other nonprofit universities and institutions engaged in or competent to engage in research, for the purpose of defraying the cost of construction of facilities, or the purchase and installation of equipment, needed for the conduct of research into the causes of and possible cures for crippling and killing diseases. The committee amendment was added to make it clear that the grants could be used to purchase equipment as well as to pay for the installation costs.

APPROPRIATION AUTHORIZATION

Title VI, section 703

Section 703 authorizes the appropriation of not to exceed $30 million for each of the next 3 fiscal years.

Title VI, section 704

Section 704 defines the terms "construction," "nonprofit", and "accredited" as they are used in the bill. "Construction" is so defined as to exclude the cost of offsite improvements and the cost of the acquisition of land. The committee broadened the definition of "construction" by adding "plans and specifications." This was necessary because such terms were removed from section 706 (b).

Title VI, section 705

NATIONAL COUNCIL

Section 705 (a) creates a National Council on Medical Research Facilities composed of 1 representative of each of the component institutes of the National Institutes of Health; 1 additional member experienced in the planning, construction, or administration of medical research facilities; and the Surgeon General, who would serve as Chairman of the Council.

Section 705 (b) provides that it will be the function of the Council to review applications for grants and to make recommendations to the Surgeon General in connection therewith.

GEOGRAPHICAL DISTRIBUTION OF GRANT FUNDS

Section 705 (c) divides the States into the following four regions:

Region I: Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, Pennsylvania, New Jersey, and Delaware.

Region II: Maryland, District of Columbia, Virginia, West Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Arkansas, Tennessee, Kentucky, Puerto Rico, and the Virgin Islands.

Region III: Minnesota, Wisconsin, Michigan, Ohio, Indiana, Illinois, Missouri, and Iowa.

(d) It is sound public policy that, in our search for the causes of and cures for these devastating diseases, we encourage that freshness of vision and exploration of new ideas which can best be assured if research can be carried on in every region of the country and under competent local auspices in addition to that carried on directly by the Federal Government.

PURPOSE

SEC. 702. It is the purpose of this title to provide for grants-in-aid to accredited public and other nonprofit universities and schools of medicine, dentistry, and osteopathy, hospitals, laboratories, and other public and nonprofit institutions, engaged in or competent to engage in research, for the purpose of defraying the cost of construction of facilities, or the purchase and installation of equipment, needed for the conduct of research into the causes of and possible cures for crippling and killing diseases, including cancer, heart disease, poliomyelitis, nervous disorders, mental illness, arthritis and rheumatism, blindness, cerebral palsy, tuberculosis, multiple sclerosis, epilepsy, cystic fibrosis, and muscular dystrophy.

APPROPRIATION

SEC. 703. There is hereby authorized to be appropriated for the fiscal year ending June 30, 1956, and each of the two succeeding fiscal years, not to exceed $30,000,000, for the purpose of making grants-in-aid provided for in this title.

DEFINITIONS

SEC. 704. As used in this title—

(a) The term "construction" includes construction of new buildings, expansion, remodeling, and alteration of existing buildings, and initial equipment of any such buildings; including architects' fees and plans and specifications, but excluding the cost of off-site improvements and the cost of the acquisition of land;

(b) The term "nonprofit" means owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual; and

(c) The term "accredited" means approved or accredited by a recognized body or bodies approved by the Surgeon General after he has obtained the advice and recommendation of the National Council on Medical Research Facilities (created by section 705).

NATIONAL COUNCIL ON MEDICAL RESEARCH FACILITIES

SEC. 705. (a) There is hereby created in the Public Health Service the National Council on Medical Research Facilities (hereinafter referred to as the "Council"), to consist of the Surgeon General, who shall be Chairman, one representative (and one alternate to serve in the absence of such representative) of each of the national advisory councils attached to the National Institutes of Health, to be designated by the respective councils, and one additional member who shall be experienced in the planning, construction, or administration of a medical research facility, to be appointed by the Surgeon General with the approval of the Secretary of Health, Education, and Welfare. Vacancies on the Council shall be filled in the same manner as the original appointments. Members of the Council shall receive the same compensation and allowances as are authorized in the case of members of national advisory councils in section 208 (c) of this Act. The Council shall cease to exist on June 30, 1958.

(b) It shall be the function of the Council to act upon applications for grants-in-aid under section 706, and to make recommendations to the Surgeon General in connection therewith.

(c) For the purposes of this title the States shall be divided into four regions as follows:

Region I: Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, Pennsylvania, New Jersey, and Delaware.

Region II: Maryland, District of Columbia, Virginia, West Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Arkansas, Tennessee, Kentucky, Puerto Rico, and the Virgin Islands.

Region III: Minnesota, Wisconsin, Michigan, Ohio, Indiana, Illinois, Missouri, and Iowa.

Region IV: North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Louisiana, Texas, New Mexico, Arizona, California, Oregon, Washington, Idaho, Montana, Wyoming, Colorado, Utah, Nevada, Alaska, and Hawaii.

Region IV: North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Louisiana, Texas, New Mexico, Arizona, California, Oregon, Washington, Idaho, Montana, Wyoming, Colorado, Utah, Nevada, Alaska, and Hawaii.

The section also provides that grants-in-aid shall be made in such a manner that the total of grants made in any 1 of the 4 regions under the terms of this legislation when added to the total grants made for the same purpose in that region in earlier years shall be approximately equal to the corresponding sum for each of the other regions.

Title VI, section 706

Subsection 706 (a) requires applicants for grants to submit applications in such form and containing such information and data as the Surgeon General shall, by regulations, prescribe. The committee amendment was added to make it clear that applications should be submitted to the Surgeon General for transmittal to the Council for review and recommendation.

Subsection 706 (b) was amended so that the recommendation of the Council will not be mandatory on the Surgeon General. Upon the recommendation of the Council the Surgeon General is authorized to make grants-in-aid in the amounts recommended by the Council or such lesser amount as he determines to be appropriate. The subsection also provides that no grant-in-aid shall exceed one-half the cost of construction or of the purchase or installation of equipment. The committee intends that it shall be possible to make a grant to a single institution for both the construction and the equipment of a research facility.

SECTION 5

TECHNICAL AMENDMENTS TO ACT OF JULY 1, 1944

This section contains technical amendments required to provide for the insertion of the new title VI and the renumbering of the following titles and sections of the Public Health Service Act.

Changes in Existing Law

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italics):

PUBLIC HEALTH SERVICE ACT

* * * * * * *

TITLE VII—MEDICAL RESEARCH FACILITIES

DECLARATION OF POLICY

SEC. 701. The Congress hereby finds and declares that—

(a) the ravages of certain devastating diseases causing widespread suffering, crippling, and premature death result in consequent loss of productivity to the Nation; an unnecessary economic loss to business and industry; severe financial impact on the families of the sufferers; an economic burden on local communities; and an impact on the defensive strength of the Nation;

(b) promising new scientific developments remain unexploited because facilities for research are lacking or sadly deficient in those localities where research skills or patients are located;

(c) there is a need to attract young scientists into this most important field, which need cannot be met if facilities to carry on research are denied them; and

SUPPLEMENTAL VIEWS OF SENATOR WILLIAM A. PURTELL

To the extent that this bill will encourage and assist in expanding private medical research facilities, I consider it commendable. I must object, however, to the provision of section 705 (c) of the bill which groups the States into geographic regions and requires that construction grants to any such region, when added to research construction grants made prior to the enactment of this bill, shall be approximately equal to the grants made to other regions. This provision of the bill establishes a kind of rigidity in the making of grants which may unduly restrict the flow of funds to those areas where private interest and private activity indicate the greater need for assistance.

Private activity in the field of medical research and the resulting need for proper construction and equipment to further such activities is not a matter to be governed by hard and fast geographical considerations. In general, it can be said that research facilities, whether in the field of health and medicine, or in any other field, are related to the availability of qualified personnel and, at times, to the subject matter of the research. The geographical requirement of section 705 (c) can have the effect of denying funds to certain areas of the Nation where location of the research activity is otherwise advantageous and to that extent, this section of the bill may not be in the public interest.

I subscribe to the belief that geographical distribution in the matter of grants of Federal funds is a factor which generally should be taken into consideration as a matter of judgment and discretion on the part of those charged with the administration of a statute. I believe too that as a matter of general practice that Federal grants should not be wholly directed to any particular State or area of the Nation. In regard to the construction of medical research facilities, however, it is apparent to me that funds should be allocated on the basis of applications received from private organizations ready and willing to conduct medical research. To deny an application on the ground that the facility is not so located in a geographic sense as to apportion the overall amount appropriated on a geographic basis seems to me to be unrealistic and a contradiction of the announced purpose of the bill.

I also wish to state for the record my reservations in regard to section 706 (b) of this bill. It will be noted that this section provides that the Surgeon General is empowered to make the grants recommended by the National Council of Medical Research Facilities. In legislation of this nature, it is my belief that provision should be made to require the Surgeon General to consult with the Secretary of Health, Education, and Welfare prior to the authorization of any grants.

WILLIAM A. PURTELL.

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Grants-in-aid under this title shall be made in such manner that the sum obtained by adding (A) the total of such grants-in-aid made to any region, to (B) the total of the grants-in-aid made to such region by the Surgeon General for the same purposes from funds appropriated therefor prior to the date of enactment of this title, shall be approximately equal to the corresponding sum for each of the other regions. With respect to grants-in-aid made from the appropriations for the first two fiscal years for which appropriations are made pursuant to the provisions of this title, the Surgeon General shall be deemed to have complied with the provisions of the immediately preceding sentence if (A) there is utilized 80 per centum of each such appropriation to make grants-in-aid in accordance with the provisions of such sentence, and (B) the total of the grants-in-aid to any region from the remaining 20 per centum of each such appropriation does not exceed one-third of such 20 per centum.

APPROVAL OF PROJECTS AND PAYMENTS

SEC. 706. (a) Applicants for Federal assistance under this title shall submit applications to the Surgeon General for review and recommendation by the Council. Such application shall be in such form and contain such information and data with respect to the applicant and the proposed facility or equipment, as the Surgeon General may by regulations prescribe, including a detailed plan of the contemplated construction, and a statement as to the purposes to which the proposed facility or equipment will be devoted.

(b) The Surgeon General is authorized, upon the recommendation of the Council, to make a grant-in-aid to the applicant in the amount recommended by the Council, or such lesser amount as the Surgeon General determines to be appropriate; but no grant-in-aid shall exceed one-half of the cost of construction of the research facilities, or one-half of the cost of purchase and installation of the equipment, or both, as the case may be.

NOTE.—Section 3 of the bill also amends the act of July 1, 1944, by changing title and section numbers, and references thereto, to conform to the addition of the new title. In the opinion of the committee, it is necessary to dispense with the requirements of subsection 4 of rule XXIX in the case of these purely technical amendments, in order to expedite the business of the Senate.

Calendar No. 877

84TH CONGRESS, 1st Session } SENATE { REPORT No. 870

MENTAL HEALTH STUDY ACT OF 1955

JULY 14, 1955.—Ordered to be printed

Mr. HILL, from the Committee on Labor and Public Welfare, submitted the following

REPORT

[To accompany H. J. Res. 256]

More than 50 percent of the hospital beds in this Nation are occupied by victims of mental illness. More than 750,000 mentally ill and retarded patients are now being hospitalized in the United States on any given day. More than $1 billion a year is the direct economic cost of mental illness to the American taxpayer, and that cost has been increasing at the rate of over $100 million a year.

It was for these reasons and for the many and equally cogent reasons set forth in its preamble that Senate Joint Resolution 46 was introduced in the Senate by Senator Hill and 31 of his colleagues.[1] The resolution was referred to the Committee on Labor and Public Welfare and that committee, having received testimony in favor of the measure from representatives of such bodies as the American Psychiatric Association, the American Medical Association, the National Mental Health Committee, the National Rehabilitation Association, the American Public Welfare Association, the Department of Health, Education, and Welfare, and the Bureau of the Budget, met in executive session to consider the resolution.

In the interim, the House of Representatives took up House Joint Resolution 256, a companion bill, and passed it without a single objection. Inasmuch as House Joint Resolution 256 is identical with Senate Joint Resolution 46, except for a clarifying amendment making clear the fact that the organization or organizations which apply for grants under the terms of the bill must be willing to assume the responsibility of both planning and conducting the thoroughgoing reevaluation of our approach to mental illness which the measure calls for, the Senate Committee on Labor and Public Welfare unanimously agreed to favorably report House Joint Resolution 256 and to urge its adoption.

[1] Senators Young, Chavez, Ives, Murray, Neely, Douglas, Lehman, Kennedy, McNamara, Clements, Hennings, Humphrey, Jackson, Kefauver, Kilgore, Langer, Long, Magnuson, Mansfield, Monroney, Morse, Neuberger, Pastore, Payne, Potter, Scott, Smathers, Sparkman, Symington, Thye, and Green.

NEED FOR LEGISLATION

The reasons why the committee believes the passage of this resolution is urgent are set forth quite clearly in its preamble, which reads as follows:

Whereas some seven hundred and fifty thousand mentally ill and retarded patients are now being hospitalized on any given day; and

Whereas forty-seven per centum of the hospital beds in the Nation are occupied by mental patients; and

Whereas the direct economic cost of mental illness to the taxpayers of the Nation, including pensions to veterans with psychiatric disabilities, is over $1,000,000,000 a year and has been increasing at a rate of $100,000,000 a year; and

Whereas the emotional impact and distress suffered by millions of our people anxiously and justifiably concerned about the welfare, treatment, and prospects of mentally afflicted relatives is incalculable; and

Whereas the governors of the several States, through national and regional governors conferences and through the publications of the Council of State Governments, have shown great initiative in their cooperative attempts to develop better methods of meeting the problem of mental illness in their States; and

Whereas there is strong justification for believing that this constantly growing burden may well be due primarily to an outmoded reliance on simple custodial care in mental hospitals as the chief method of dealing with mental illness; and

Whereas there is strong reason to believe that a lack of early intensive treatment facilities has contributed materially to the creation of such a backlog of mentally deteriorated patients that it is virtually impossible for the States to meet the need for mental hospital facilities; and

Whereas there is strong reason to believe that one of the greatest impediments to more rapid progress in the field of mental health is a definite shortage of professional personnel in all categories; and

Whereas there seems to be a discouraging lag between the discovery of new knowledge and skills in treating mental ilness and their widespread application, as is evidenced by the fact that only about one-third of newly admitted mental patients are on the average discharged from State hospitals in the course of a year, whereas in a few outstanding institutions the recovery rate is 75 per centum or more; and

Whereas experience with certain community out-patient clinics and rehabilitation centers would seem to indicate that many mental patients could be better treated on an out-patient basis at much lower cost than by a hospital; and

Whereas there is strong reason to believe that a substantial proportion of public mental hospital facilities are being utilized for the care of elderly persons who could be better cared for and provided better treatment in modified facilities at lower cost; and

Whereas there is reason to believe that many emotionally disturbed children are being placed in mental hospitals which have no proper facilities to administer to their needs; and

Whereas mental illness is frequently a component of such nationwide problems as alcoholism, drug addiction, juvenile delinquency, broken homes, school failures, absenteeism and job maladjustment in industry, suicide, and similar problems; and

Whereas there is no overall integrated body of knowledge concerning all aspects of the present status of our resources, methods, and practices for diagnosing, treating, caring for and rehabilitating the mentally ill, although only through the development of such a body of knowledge can the people of the United States ascertain the true nature of this staggering problem and develop more effective plans to meet it:

The committee can think of no more impressive concatenation of circumstances calculated to call for prompt action by the Congress than those set forth above. We may, however, heighten their impressiveness and our sense of urgency by pointing out the fact that whereas, when the resolution was drafted, the latest reliable information available indicated that some 47 percent of all our hospital beds were occupied by victims of mental illness, by the time our hearings were held, that figure had mounted to "over 50 percent."

PURPOSE OF LEGISLATION

Members of the Congress are aware of the momentous Flexner report of the early 1900's which revolutionized American medical education. That report, based on a thoroughgoing analysis and reevaluation of the methods, practices, curricula, patterns of recruiting students, quality of faculty, and every other aspect of what was then regarded as medical education, set in motion a process which resulted in the wiping out of so-called diploma mills and the establishing of those new principles which have since made medical education in this country a model for the world. Because of the Flexner report, an institution, a way of doing things, a pattern which had proved ineffective and embarrassing to the United States was completely but intelligently, intelligibly, and gradually overturned and transmuted into a system of which we are rightfully proud.

Confronted by the fact that our current approach to the problem of mental illness is proving ineffectual and by the further fact that the problem itself is assuming proportions which threaten the financial stability of State and local governments (to say nothing of its impact on our emotions and on the hearts of the families and individuals immediately involved), the sponsors of both Senate Joint Resolution 46 and House Joint Resolution 256, in consultation with those organizations whose members are concerned with the early recognition, proper diagnosis, effective treatment, and rehabilitation of the mentally ill, drafted this legislation, the purpose of which is to encourage and to help finance the undertaking of just such a penetrating, analytic, and encompassing study of our current approach to the problem of mental health as was undertaken by Dr. Flexner with respect to medical education. The Committee on Labor and Public Welfare is unanimous in its opinion that such a study undertaken for the reasons stated is most certainly in the public interest. The committee believes that the study contemplated should include but not be limited to inquiries into the status, progress, and problems incident to (1) the provision of hospital and related facilities necessary to the furnishing of care and treatment for the mentally ill, (2) the improvement of mental health services and treatment both in and outside mental hospitals, (3) the availability and training of psychiatrists and allied mental health personnel, and (4) the development of research into the causes, treatment, and prevention of mental illness. The committee agrees that that study should be undertaken by such non-Federal organizations, associations, and professional bodies as are directly concerned with one or another facet of mental illness and on whose cooperation the Nation must rely if the findings of such a study as is contemplated in the resolution are to be made effective. The committee further agrees that, if such a study and reevaluation is to be translated into action and not remain an academic document, the participating organizations should not be mere recipients of Federal funds but should have proved themselves sufficiently concerned with the problem as to be willing to undertake the task of raising an appreciable portion of the necessary funds. It is for this reason that the bill authorizes an overall appropriation of $1,250,000 spread over a period of 3 years as representing the Federal Government's contribution to the cost of the undertaking. That sum of $1,250,000 is estimated as representing approximately one-

half the amount necessary if the study contemplated is to be properly carried out. Having mentioned that sum, the committee, in order to keep things in perspective, deems it appropriate to rerefer to the fact that the Nation now spends more than $1 billion a year of tax money alone not to solve but merely to cope with the problem of mental illness. We believe an expenditure of $1¼ million in the attempt to maintain mental health is thoroughly justified.

HOUSE REPORT ON HOUSE JOINT RESOLUTION 256

Inasmuch as the Senate Committee on Labor and Public Welfare is unanimously recommending the passage of House Joint Resolution 256, we believe it in order to set forth here the reasoning which prompted the Committee on Interstate and Foreign Commerce of the House of Representatives to unanimously report that resolution to the House, which subsequently passed it without a single objection. That committee's report includes a section-by-section analysis of the bill, together with the administration's comments thereon. It is as follows:

[H. Rept. No. 241, 84th Cong., 1st sess.]

The Committee on Interstate and Foreign Commerce, to whom was referred the joint resolution (H. J. Res. 256) providing for an objective, thorough, and nationwide analysis and reevaluation of the human and economic problems of mental illness, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the joint resolution do pass.

PURPOSE OF LEGISLATION

The purpose of the legislation is to authorize the Surgeon General, upon the recommendation of the National Advisory Mental Health Council (established by the National Mental Health Act), to make grants for the carrying out of a coordinated program of research and study of all aspects of the resources, methods, and practices for diagnosing, treating, caring for, and rehabilitating the mentally ill. Such grants would be made to nongovernmental organizations composed of representatives of leading national medical and other professional associations and agencies active in the field of mental health.

The joint resolution would authorize to be appropriated for the fiscal year ending June 30, 1956, the sum of $250,000, and the sum of $500,000 for each of the 2 succeeding fiscal years. Under the terms of the grants, the research and study must be completed within 3 years from the date it is inaugurated. Annual reports and the final report must be filed by the grantee with the Congress, the Surgeon General, and the governors of the several States.

Grantees are authorized to accept—and it is anticipated that they will secure—additional financial support from private or other public sources.

Your committee through its Subcommittee on Health and Science held extensive hearings on the legislation. The legislation has the unanimous support of all the witnesses who appeared in the course of the hearings. These witnesses included:

Secretary Oveta Culp Hobby, Department of Health, Education, and Welfare.

Dr. Leonard A. Scheele, Surgeon General.

Dr. Robert H. Felix, Director, National Institute of Mental Health.

Dr. Winfred Overholser, superintendent, St. Elizabeths Hospital.

Dr. Chester S. Keefer, special assistant for Health and Medical Affairs.

Mr. Mike Gorman, executive director, National Mental Health Committee.

Dr. Daniel Blain, medical director, American Psychiatric Association.

Dr. Harvey J. Tompkins, Director, Psychiatry and Neurology Service, Department of Medicine and Surgery, Veterans' Administration.

Dr. David B. Allman, chairman, committee on legislation, American Medical Association.

Dr. Leo H. Bartemeier, chairman, Council on Mental Health, American Medical Association.

Dr. George S. Stevenson, national and international consultant, National Association for Mental Health.

Dr. Francis J. Braceland, chief psychiatrist, Institute of Living, Hartford, Conn., and member of the Task Force on Federal Medical Services of the Commission on Organization of the Executive Branch of the Government (Hoover Commission).

Dr. Fillmore H. Sanford, executive secretary, American Psychological Association.

Mr. Joseph Curran, chairman of the CIO social-security committee.

The report in support of the legislation submitted by the Department of Health, Education, and Welfare, which is printed below, pointed to an ambiguity in the language of House Joint Resolution 230 on which hearings were held. In order to clarify this language a clean bill, House Joint Resolution 256, was introduced.

The Department suggested that the legislation should make certain that the responsibility for the development of a coordinated program should belong to the prospective grantee or grantees and not to the Surgeon General. House Joint Resolution 256 provides that—

"* * * such grants may be made to one or more organizations, but only on condition that the organization will undertake and conduct, or if more than one organization is to receive such grants, only on condition that such organizations have agreed among themselves to undertake and conduct, a coordinated program of research into and study of all aspects of the resources, methods, and practices referred to in paragraph (1)."

REASONS FOR LEGISLATION

The reasons for the legislation are set forth at considerable length in the preamble and in section 2 of the joint resolution. The country is badly in need of a comprehensive and realistic nationwide review and reappraisal of the resources, methods, and practices currently utilized in diagnosing, treating, caring for, and rehabilitating the mentally ill, both within and outside of institutions. Growing out of such review and reappraisal should be the development of a number of recommendations for better utilization of our resources and improvements in methods of prevention, diagnosis, treatment, care, and rehabilitation. It is hoped that these recommendations, if put into effect energetically, will result in a marked reduction in the incidence and duration of mental illness, and, as a consequence, in a lessening of economic losses and human suffering.

PRESENT STATE OF MENTAL ILLNESSES

A few facts with regard to the present state of mental illnesses in the United States demonstrate why the mental health problem is in many respects the most urgent of the health problems which we face today:

(1) Nine million Americans, or 6 percent of our total population, have serious mental disorders.

(2) Seven hundred and fifty thousand mentally ill Americans are now being hospitalized on any given day.

(3) Forty-seven percent of the Nation's hospital beds are occupied by mental patients. Ninety-eight percent of these beds are tax supported.

(4) One out of every twelve Americans born today will spend part of his life in a mental hospital.

(5) The direct annual cost of mental illness to the taxpayers of the Nation, including pensions to mentally ill veterans, is over $1 billion. This cost has been increasing at a rate of $100 million a year.

(6) The 48 States carry a tax burden of half a billion dollars in caring for mental illnesses. In the State of New York, for example, the mental-health budget for the current year amounts to $158 million, or 35 percent of the Empire State's operating budget.

(7) The Federal Government spends $628 million annually (exclusive of construction costs) on the care and treatment of mentally ill veterans; $397 million for compensation, and $200 million for hospital care—are the 2 largest items.

(8) As of January 1, 1955, there were 57,376 mentally ill veterans in hospitals of the Veterans' Administration, and an additional 16,578 mentally ill veterans were on the waiting list for admission to Veterans' Administration hospitals. By 1960, it is estimated, there will be 112,000 psychotic veterans in need of hospitalization.

as cured, many persons who previously were long-term patients in such institutions.

Dr. Daniel Blain, medical director of the American Psychiatric Association, summed up the complete change in attitude toward mental illnesses which is coming about when he testified as follows:

"The despair that consigned the mentally ill to simple custody for life in mental institutions is rapidly being displaced by the realization that mental illness is not hopeless and that the great majority of the mentally ill can be treated and returned to the community in a relatively short period of time.

* * * * * * *

"Another most auspicious change in people's thinking lies in the general trend toward deemphasizing the conventional mental hospital as an almost exclusive tool for dealing with mental illness. This has been in no small measure due to the wisdom of the Congress in encouraging the development of community clinic services under the National Mental Health Act and through the Veterans' Administration. Increasingly, the mental hospital is thought of as merely part of a network of community services, all of them designed to forestall or prevent hospitalization, if possible, and to shorten it if not."

SUMMARY

In the light of these needs, the gaps in our resources, and the known bright spots, an objective, thorough, and nationwide study of the kind described in this report appears critically needed. House Joint Resolution 256 seeks to support such a study and thereby seeks to accomplish the following objectives:

1. To give some Federal financial support to organizations concerned with mental health which have decided that our best hope to find a solution to the staggering problem of mental illnesses lies in a thoroughgoing nationwide analysis and reevaluation of our entire approach to the problems of mental health. Other financial support for this commendable undertaking will come from other private and public (State and local) sources.

2. To give support to the principle that sponsorship and direction of such a coordinated program of research and study should be shared as widely as possible among the various groups, public and voluntary, concerned with different aspects of mental health. Such a sharing of sponsorship and support is essential, not only to assure coordination of the various interests and competencies, but also to lay the foundation for future acceptance and utilization of the findings and recommendations resulting from this study.

3. To make possible as a result of this study the development of comprehensive and realistic recommendations for better utilization of our resources and for such improvements and new developments as will result in a marked reduction in the incidence or duration of mental illness and a lessening of the emotional and financial drain on the families of mental patients and on the economic resources of the States and of the Nation; and

4. To afford guidance on the basis of this study to the steadily increasing efforts of the States, local communities, and private groups in coping with mental health problems.

Your committee feels that the contemplated survey and study is so worthwhile that the Federal Government should participate in this undertaking as a matter of self-interest. The Federal share of the funds which are required for this study is less than one-fifth of 1 percent of the money spent annually by the Federal Government for pensions and treatment of mentally ill veterans. Any improvement resulting from this study in the treatment and rehabilitation of the mentally ill will amply repay the Federal Government because of possible reduction in expenditures for those mentally ill veterans for whom our Federal Government has assumed a direct financial responsibility.

In conclusion, this committee hopes in all sincerity that this legislation will initiate another and still better phase in modern psychiatry just as the National Mental Health Act of 1946 opened a new phase in the war against mental illness.

SECTION-BY-SECTION EXPLANATION OF HOUSE JOINT RESOLUTION 256

Section 1 sets forth a short title of House Joint Resolution 256: "Mental Health Study Act of 1955."

Section 2 (a) sets forth the purposes to be accomplished by the joint resolution. It states that it is the sense of the Congress that there exists a critical need for an objective, thorough, and nationwide analysis and reevaluation of the human and economic problems of mental illness and of the resources, methods, and practices

While these figures show the staggering needs which we must meet in the field of mental illnesses, a quick look at our resources shows a terrifying gap in meeting these needs.

(1) The need for full-time psychiatrists in State mental institutions throughout the Nation is met only about 50 percent; the need for graduate nurses, 24 percent; the need for psychiatric social workers, 23 percent; and the need for attendants, 74 percent.

(2) The 16 governors belonging to the Southern Governors' Conference issued a report in 1954 which indicates that the total number of psychiatrists needed in these 16 States (in institutions and in private practice) is 4,260 to meet minimum standards. As against this, the entire Southland will graduate only 272 psychiatrists in the next 3 years.

(3) Ten Midwestern States surveyed their needs in 1954 in several conferences called by their governors and concluded that they need 1,010 additional psychiatrists, 338 additional clinical psychologists, 589 additional psychiatric social workers, and 8,365 additional nurses to meet minimum standards.

These statistical samples give a good picture of unmet needs in the field of mental health. An even more serious gap, however, exists between our knowledge with regard to diagnosis and treatment of mental illnesses and our application of available knowledge.

Dr. Leo H. Bartemeier, chairman of the Council on Mental Health of the American Medical Association, testified before this committee as follows:

"In solving health problems, stress is too often placed on the provision of physical facilities for diagnosis and treatment. We lose sight of the fact that hospital buildings do not cure patients. The successful management of illness, whether physical or mental, comes only from the application of the art and science of medicine by a physician skilled in modern methods.

"Particularly in the field of mental illness, we have mistakenly sought solutions to our problems by the construction and maintenance, at tremendous public cost, of institutions for custodial care of the mentally ill. In many instances these institutions are nothing more than mental "pesthouses" where patients are confined indefinitely with slight hope of cure. We have good reason to question, fundamentally, the concept of a mental hospital as the primary tool for treating the mentally ill.

"Within comparatively recent times the 'pesthouse' concept of treatment for the physically ill has fallen to the assault of intensified medical research, and the wide application of new and healing techniques to diseases long thought to be incurable has been substituted. Smallpox, typhoid fever, yellow fever, malaria, all dreaded killers in their time have fallen. Tuberculosis, pneumonia, diabetes, and infectious diseases of childhood are no longer great threats. New hope exists for success in the fight against poliomyelitis, cancer, and heart disease.

"Mental illness can succumb to the same attack. Patchwork, stopgap programs for the care of the mentally ill, are keeping us on a treadmill and actually doing little to reduce and prevent mental illness. Where the same principles which have largely conquered so many dreaded physical diseases are applied to the study of mental illness, the results are heartening."

SOME BRIGHT SPOTS

As the aforementioned quotations indicate, however, the outlook today in the field of mental health is not entirely black.

(1) New drugs have been tested (but by no means exhaustively) which make it possible to apply psychotherapy to mental patients who previously have been beyond the reach of psychiatric treatment.

(2) Mental illness in the South resulting from pellagra has been practically eliminated as a result of the discovery that niacin prevents and cures pellagra.

(3) The number of patients suffering from paresis due to syphilis has been cut due to the discovery of penicillin as a treatment for syphilis.

(4) Electric shock therapy has helped many patients suffering from certain types of schizophrenia and involutional melancholia.

(5) Cretinism, which is a type of imbecility resulting from a thyroid deficiency can now be treated successfully with thyroid if recognized early enough.

(6) Psychosurgery has progressed to a point where some surgeons think of it as a turning point in therapy.

(7) Finally, tests made in some mental hospitals, applying concentrated treatment of mental patients by psychiatrists, clinical psychologists, and psychiatric social workers, have demonstrated the feasibility of discharging, after treatment,

Council, to make a grant or grants for the support of a basic study and evaluation of mental health problems and of present mental health methods and programs. The study would be conducted or sponsored by a qualified group or groups of representatives of the professional societies and other non-Federal agencies in the field of mental health. Appropriations of $250,000 for this purpose would be authorized for the fiscal year ending June 30, 1956, and $500,000 for each of the 2 succeeding fiscal years.

This Department is in complete accord with the principal objective of the resolution. There can be little doubt as to the potential value of a thoroughgoing "baseline" inquiry into all aspects of the mental health problem. The extent of the current problem and the cost of administering preventive and treatment programs, which are so effectively outlined in the "Whereas" clauses of the resolution, clearly indicate the need for a reappraisal of the problem and of present approaches to its solution.

We are also in agreement with two other premises of the resolution: (1) That the interest of Federal Government in the broad problem of mental health justifies Federal participation in the cost of such a fundamental, "baseline" study, and (2) that sponsorship or direction of the study should be shared as widely as possible among the various groups, public and voluntary, in the field of mental health. Such a sharing of sponsorship and support is essential, not only to assure coordination of the various interests and competencies, but also to lay the foundation for future acceptance and utilization of the findings and recommendations resulting from the study.

In view of the importance of such concurrence by the various interested organizations and groups, your committee will undoubtedly wish to obtain a direct expression of their views on the proposal. From the standpoint of this Department, however, it would appear to be an acceptable method of providing Federal assistance without undue Federal control over the findings and recommendations resulting from the study. There may be some question as to the need for additional statutory authorization for such grant assistance. A specific authorization would not appear inappropriate, however, in view of the scope of the study contemplated and the specific reporting obligations of the grantee.

Although the provisions of section 3 relating to the scope and content of the study, and to the group or groups undertaking the study, are couched in very general terms, these provisions could be supplemented through the terms of the grant application submitted for review by the Surgeon General and the National Advisory Mental Health Council. It would be desirable, however, to clarify these provisions in one respect. As presently worded, they would authorize a grant or grants to "such qualified nongovernmental agencies * * * as may agree to undertake and conduct research into and study of all aspects of our resources, methods, and practices * * *." It is not clear from this language whether (*a*) the Surgeon General would be responsible for seeing that all aspects of the problem are covered by one or more grantees or (*b*) the prospective grantees would be required, as a grant condition, to develop among themselves a coordinated plan of study covering the entire problem. The latter construction would be preferable, in our opinion.

The appropriations authorized appear to be adequate for the purpose, particularly if they are supplemented with financial support from non-Federal sources, as authorized in subsection (d) of the proposed new section 304 of the Public Health Service Act. We would hope that substantial supplemental support could be provided in order to underscore the concept of shared responsibility.

In summary, we are in accord with the objectives of the resolution and believe that it could be an important step toward improved mental health. We therefore recommend that the resolution, clarified as suggested above, be adopted by the Congress.

The Bureau of the Budget advises that it perceives no objection to the submission of this report to your committee.

Sincerely yours,

OVETA CULP HOBBY,
Secretary.

CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the joint resolution, as introduced, are shown as follows (new matter is printed in italics, existing law in which no change is proposed is shown in roman):

currently utilized in diagnosing, treating, caring for, and rehabilitating the mentally ill, both within and outside of institutions. Such analysis and reevaluation is expected to lead to the development of comprehensive and realistic recommendations for better utilization of those resources or improvements on and new developments in methods of diagnosing, treatment, care, and rehabilitation. These improvements and developments would give promise of resulting in a marked reduction in the incidence or duration of mental illness, and in consequence a lessening of the appalling emotional and financial drain on the families of those afflicted or on the economic resources of the States and of the Nation.

Section 2 (b) sets forth the congressional policy underlying the joint resolution. It states that the Congress, by means of this resolution, intends to implement the following policy: To promote mental health and to help solve the complex and the interrelated problems posed by mental illness by encouraging the undertaking of nongovernmental, disciplinary research into and reevaluation of all aspects of our resources, methods, and practices for diagnosing, treating, caring for, and rehabilitating the mentally ill, including research aimed at the prevention of mental illness.

Section 3 would amend part A of title III of the Public Health Service Act by adding after section 303 a new section 304:

Section 304 (a) (1) would authorize the Surgeon General, upon the recommendation of the National Advisory Mental Health Council, to make grants for the carrying out of a program of research into and study of our resources, methods, and practices for diagnosing, treating, caring for, and rehabilitating the mentally ill, such program to be on a scale commensurate with the problem. While the program referred to would include research into our resources, methods, and practices for diagnosing, training, caring for, and rehabilitating the mentally ill, it is not intended to include laboratory or clinical research to be undertaken by the grantee or grantees.

Section 304 (a) (2) provides that such grants may be made to one or more organizations, but only on condition that the organization will undertake and conduct, or if more than one organization is to receive such grants, only on condition that such organizations have agreed among themselves to undertake and conduct, a coordinated program of research into and study of all aspects of the resources, methods, and practices referred to in paragraph (1).

Section 304 (a) (3) defines the term "organization" as used in the preceding paragraph as "a nongovernmental agency, organization, or commission, composed of representatives of leading national medical and other professional associations, organizations, or agencies active in the field of mental health."

Section 304 (b) would authorize to be appropriated for the fiscal year ending June 30, 1956, the sum of $250,000 to be used for a grant or grants to help initiate the research and study provided for in this section; and the sum of $500,000 for each of the 2 succeeding fiscal years for the making of such grants as may be needed to carry the research and study to completion. The terms of any such grant shall provide that the research and study shall be completed not later than 3 years from the date it is inaugurated; that the grantee shall file annual reports with the Congress, the Surgeon General, and the governors of the several States, among others that the grantee may select; and that the final report shall be similarly filed.

Section 304 (c) provides that nothing in this section shall in any way affect the availability of amounts otherwise appropriated for work in the field of mental health; and that it shall not be construed to interfere with or diminish the more limited and specific programs of research and study being carried on through or under the auspices of the National Institute of Mental Health.

Section 304 (d) provides that any grantee, agency, organization, or commission is authorized to accept additional financial support from private or other public sources to assist in carrying on the project authorized by this section.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE.

Hon. J. PERCY PRIEST,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives.

DEAR MR. CHAIRMAN. This letter is in response to your request of February 28, 1955, for a report on House Joint Resolution 230, providing for an objective, thorough, and nationwide analysis and reevaluation of the human and economic problems of mental illness, and for other purposes.

The resolution would authorize the Surgeon General of the Public Health Service, upon the recommendation of the National Advisory Mental Health

PUBLIC HEALTH SERVICE ACT

TITLE III—GENERAL POWERS AND DUTIES OF PUBLIC HEALTH SERVICE

PART A—RESEARCH AND INVESTIGATIONS

IN GENERAL

SEC. 301. The Surgeon General shall conduct in the Service and encourage, cooperate with, and render assistance to other appropriate public authorities, scientific institutions, and scientists in the conduct of, and promote the coordination of, research, investigations, experiments, demonstrations, and studies relating to the causes, diagnosis, treatment, control, and prevention of physical and mental diseases and impairments of man, including water purification, sewage treatment, and pollution of lakes and streams. In carrying out the foregoing the Surgeon General is authorized to—

(a) Collect and make available through publications and other appropriate means, information as to, and the practical application of, such research and other activities;

(b) Make available research facilities of the Service to appropriate public authorities, and to health officials and scientists engaged in special study;

(c) Establish and maintain research fellowships in the Service with such stipends and allowances, including traveling and subsistence expenses, as he may deem necessary to procure the assistance of the most brilliant and promising research fellows from the United States and abroad;

(d) Make grants-in-aid to universities, hospitals, laboratories, and other public or private institutions, and to individuals for such research projects as are recommended by the National Advisory Health Council, or, with respect to cancer, recommended by the National Advisory Cancer Council, or, with respect to mental health, recommended by the National Advisory Mental Health Council, or, with respect to heart diseases, recommended by the National Advisory Heart Council, or, with respect to dental diseases and conditions, recommended by the National Advisory Dental Research Council, and include in the grants for any such project grants of penicillin and other antibiotic compounds for use in such project;

(e) Secure from time to time and for such periods as he deems advisable, the assistance and advice of experts, scholars, and consultants from the United States or abroad;

(f) For purposes of study, admit and treat at institutions, hospitals, and stations of the Service, persons not otherwise eligible for such treatment; and

(g) Adopt, upon recommendation of the National Advisory Health Council, or, with respect to cancer, upon recommendation of the National Advisory Cancer Council, or, with respect to mental health, upon recommendation of the National Advisory Mental Health Council, or, with respect to heart diseases, upon recommendation of the National Advisory Heart Council, or, with respect to dental diseases and conditions, upon recommendations of the National Advisory Dental Research Council, such additional means as he deems necessary or appropriate to carry out the purposes of this section.

NARCOTICS

SEC. 302. (a) In carrying out the purposes of section 301 with respect to narcotics, the studies and investigations shall include the use and misuse of narcotic drugs, the quantities of crude opium, coca leaves, and their salts, derivatives, and preparations, together with reserves thereof, necessary to supply the normal and emergency medicinal and scientific requirements of the United States. The results of studies and investigations of the quantities of crude opium, coca leaves, or other narcotic drugs, together with such reserves thereof, as are necessary to supply the normal and emergency medicinal and scientific requirements of the United States, shall be reported not later than the 1st day of September each year to the Secretary of the Treasury, to be used at his discretion in determining the amounts of crude opium and coca leaves to be imported under the Narcotic Drugs Import and Export Act, as amended.

(b) The Surgeon General shall cooperate with States for the purpose of aiding them to solve their narcotic drug problems and shall give authorized representatives of the States the benefit of his experience in the care, treatment, and rehabilitation of narcotic addicts to the end that each State may be encouraged to provide adequate facilities and methods for the care and treatment of its narcotic addicts.

MENTAL HEALTH

SEC. 303. In carrying out the purposes of section 301 with respect to mental health, the surgeon General is authorized—

(a) For purposes of study, to admit and treat at the National Institute of Mental Health, voluntary patients, whether or not otherwise eligible for such treatment by the Service, and patients of St. Elizabeths Hospital transferred from the hospital pursuant to arrangements made between the Surgeon-General and the Superintendent of the hospital with the approval of the Administrator: *Provided*, That consent of a legal guardian shall be obtained before the transfer of any patient from St. Elizabeths Hospital for such treatment.

(b) (1) To provide training and instruction, in matters relating to psychiatric disorders, to persons found by him to have proper qualifications, and to fix and pay to any of such persons as he may designate a per diem allowance during such training and instruction of not to exceed $10, the number of such persons receiving such training and instruction to be fixed by the National Advisory Mental Health Council; and (2) to provide such training and instruction, and demonstrations, through grants, upon recommendation of the National Advisory Mental Health Council, to public and other nonprofit institutions, but only to the extent necessary for the purposes of such training and instruction.

GRANTS FOR SPECIAL PROJECTS IN MENTAL HEALTH

SEC. 304. (a) (1) The Surgeon General is authorized, upon the recommendation of the National Advisory Mental Health Council, to make grants for the carrying out of a program of research into and study of our resources, methods, and practices for diagnosing, treating, caring for, and rehabilitating the mentally ill, such program to be on a scale commensurate with the problem.

(2) Such grants may be made to one or more organizations, but only on condition that the organization will undertake and conduct, or if more than one organization is to receive such grants, only on condition that such organizations have agreed among themselves to undertake and conduct, a coordinated program of research into and study of all aspects of the resources, methods, and practices referred to in paragraph (1).

(3) As used in paragraph (2), the term "organization" means a nongovernmental agency, organization, or commission, composed of representatives of leading national medical and other professional associations, organizations, or agencies active in the field of mental health.

(b) For such purpose there is hereby authorized to be appropriated for the fiscal year ending June 30, 1956, the sum of $250,000 to be used for a grant or grants to help initiate the research and study provided for in this section; and the sum of $500,000 for each of the two succeeding fiscal years for the making of such grants as may be needed to carry the research and study to completion. The terms of any such grant shall provide that the research and study shall be completed not later than three years from the date it is inaugurated; that the grantee shall file annual reports with the Congress, the Surgeon General, and the Governors of the several States, among others that the grantee may select; and that the final report shall be similarly filed.

(c) Nothing in this section shall in any way affect the availability of amounts otherwise appropriated for work in the field of mental health; nor be construed to interfere with or diminish the more limited and specific programs of research and study being carried on through or under the auspices of the National Institute of Mental Health.

(d) Any grantee agency, organization, or commission is authorized to accept additional financial support from private or other public sources to assist in carrying on the project authorized by this section.

SUPPLEMENTAL VIEWS OF SENATOR WILLIAM A. PURTELL

There is an urgent need for positive and concerted action to conquer mental illness. While I consider this resolution as serving a useful purpose—a step in the right direction—it is no more than a step and I do not regard it as fulfilling the Nation's demand for an effective and comprehensive attack on the mental health problem. This bill merely authorizes an appropriation of $1,250,000 for a 3-year program of research and study by nongovernmental organizations of the resources, methods, and practices of diagnosing, treating, caring for, and rehabilitating the mentally ill.

At a time when the Federal Government should be enlarging upon its position of leadership in a coordinated program of national action to prevent and control mental illness, this bill would authorize only a study of methods and practices for preventing and treating mental illness. It is my view, therefore, that this bill falls far short of the kind of positive action which the Federal Government should take at this time. It merely constitutes a proposal for study at a time when action is needed.

The President, in his health message, recommended that the Congress consider a stepped-up program of project grants in the field of mental health. I do not believe that this resolution, however, carries out this recommendation.

In my judgment the existing mental health activities at all levels of government—Federal, State, and local—not only should be accelerated but there should also be established a Presidential Commission which would coordinate the national effort with leadership from the White House level and which would develop and recommend a comprehensive long-range program of action for dealing with the problem. As I pointed out in my remarks to the Senate on January 26, 1955, when I introduced my bill, S. 724—

> One of the fundamental problems confronting those who are trying to accomplish results in the mental health field is that of bringing about a wider understanding of the true nature of the problems of mental illness and keeping public attention focused on the problem long enough to bring about a lasting improvement in existing circumstances.

Contrary to the formation of a Presidential Commission which would be charged with responsibility of developing a comprehensive long-range program, this resolution provides for only a study program. While it is hoped that the results of any study made pursuant to this resolution would be utilized, there would be no assurance that such would be the case since no provision is made for a followup subsequent to the expiration of this resolution.

It is my belief that the Presidential Commission, which would continue in existence after completion of its inquiries, is absolutely necessary if we are going to accelerate our advance in the war against mental illness.

WILLIAM A. PURTELL.

Calendar No. 878

84TH CONGRESS, 1st Session | SENATE | REPORT No. 871

PROVIDING FOR THE CONTINUED OPERATION OF CERTAIN SCHOOLS ON MILITARY INSTALLATIONS

JULY 14, 1955.—Ordered to be printed

Mr. DOUGLAS, from the Committee on Labor and Public Welfare, submitted the following

REPORT

[To accompany H. R. 3253]

The Committee on Labor and Public Welfare, to whom was referred the bill (H. R. 3253) to amend section 6 of Public Law 874, 81st Congress, so as to provide for the continued operation of certain schools on military reservations, having considered the same, report favorably thereon with amendments and recommend that the bill, as amended, do pass.

H. R. 3253 as passed by the House of Representatives is a companion bill to S. 1610 introduced by Mr. Bender for himself and Mr. Douglas and referred to this committee. The House bill was passed with an amendment on July 7, 1955. The House having acted first, the committee proceeded to consider the House bill and unanimously reported it out with amendments.

The amendments are as follows:

On line 6, strike out the word "is" and insert in lieu thereof the word "was".

In line 6, following the word "provided", insert the words "on January 1, 1955 or thereafter".

PURPOSE OF THE BILL

Section 6 (a) of Public Law 874, 81st Congress, as amended, provides that the Commissioner of Education shall make arrangements for the education of children who reside on Federal property if, in his opinion, no local educational agency is able to provide the children with "suitable" education. The purpose in amending section 6 of Public Law 874 is to insure that schools provided under this section shall not be closed without thorough and careful consideration of all

factors affecting the children concerned. The proposed legislation would accomplish this purpose by requiring that the decision to close a school be jointly arrived at by the Commissioner of Education and the Secretary of the military department concerned, rather than by the Commissioner of Education acting unilaterally as at present.

In this manner a clear defect in the present law resulting from a very narrow and strained interpretation of the word "suitable" will be remedied and the intent of Congress in this respect will be clarified beyond question.

In considering this proposal the committee had available the extensive hearings held before the Committee on Education and Labor of the House of Representatives relating to the decision of the Commissioner of Education to close the high school on the Marine Corps base at Quantico, Va. A study of these hearings indicates that, based on his interpretation of the word "suitable", the Commissioner of Education, in determining whether or not such schools should be closed, cannot consider the particular problem and circumstances which would confront the parents and children affected by his decision. His contention is that he must deem local facilities "suitable" if space is available for such students at the moment the decision is made. He insists that under existing law he is precluded from considering such factors as the prospective overcrowding of the local schools, the transportation of students to the local schools, the peculiar problems of children of service personnel who may be and frequently are shifted from base to base in the middle of a school term, or any other local problem which would result from his decision to close an onbase school. His interpretation has the effect of substituting the word "available" for the word "suitable" in the law as it exists now. The committee does not believe that Congress intended such a narrow construction of this section.

Since the Commissioner of Education has insisted on such a narrow interpretation of the present law, the committee is of the opinion that remedial legislation must be enacted. The proposed bill, designed for this purpose, is entirely consistent with the fundamental educational policies of this country as embodied in the basic legislation on this subject, Public Law 874. It is well to emphasize that the proposed legislation will in no way change the existing substantive law. Nor can it be interpreted as injecting military control in an area where responsibility properly rests with the Commissioner of Education. This proposal will merely insure that those most vitally concerned will be afforded proper representation and consideration before the decision is made to close their schools, and will avoid any possibility of arbitrary and unilateral action by the Commissioner of Education such as that reflected in the decision to close the high school at Quantico.

It should also be noted that the decision to close a school such as that at Quantico will be made by the Commissioner and the Secretary of the military department concerned—a civilian. In no way whatsoever does the proposal establish military control over local public-school operations.

The proposed amendment to section 6 will have the effect of freeing the Commissioner of Education from the statutory restrictions which, he asserts, have in the past prevented him from making a thorough investigation and evaluation of the problems and hardships which flow from his decision to close an on-base school such as that at Quantico.

The proposed amendment conveys no new authority to anyone in connection with the establishment of schools on military installations. The existing law is not changed in this respect. Essentially, this bill provides a means of insuring that the care and consideration which Congress has always expected the Commissioner of Education to use in closing schools on Federal property will, in fact, be properly exercised.

AMENDMENTS TO THE BILL

The amendments proposed by this committee are technical in nature and are made necessary by the ending of the fiscal year while the proposal was being considered in Congress. Authorization for the expenditure of funds for section 6 schools are made on the basis of the fiscal year. In view of the Commissioner's determination that funds will not be provided in fiscal 1956 for the on-base high school at Quantico, Va., it could possibly be held that H. R. 3253 would not cover the Quantico High School since education is not presently "being provided" under subsection 6 (a). Consequently, it was deemed advisable to amend H. R. 3253 in order to preclude any question as to its applicability to the Quantico High School.

COST

The enactment of this proposal will result in no significant increase in the expenditure of Government funds.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of the rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italics, existing law in which no change is proposed is shown in roman):

SECTION 6 OF PUBLIC LAW 874, 81ST CONGRESS, AS AMENDED

SEC. 6. (a) In the case of children who reside on Federal property—

(1) if no tax revenues of the State or any political subdivision thereof may be expended for the free public education of such children; or

(2) if it is the judgment of the Commissioner, after he has consulted with the appropriate State educational agency, that no local educational agency is able to provide suitable free public education for such children,

the Commissioner shall make such arrangements (other than arrangements with respect to the acquisition of land, the erection of facilities, interest, or debt service) as may be necessary to provide free public education for such children. To the maximum extent practicable, the local educational agency, or the head of the Federal department or agency, with which any arrangement is made under this section shall take such action as may be necessary to ensure that the education provided pursuant to such arrangement is comparable to free public education provided for children in comparable communities in the State, or, in the case of education provided under this section outside the continental United States, Alaska, and Hawaii, comparable to free public education provided for children in the District of Columbia. For the purpose of providing such comparable education, personnel may be employed without regard to the civil-service or classification laws. *In any case where education was being provided on January 1, 1955, or thereafter under an arrangement made under this subsection for children residing on an Army, Navy (including the Marine Corps), or Air Force installation, it shall be presumed for the purposes of this subsection, that no local educational agency is able to provide free public education for the children residing on such installation, until the Commissioner and the Secretary of the military department concerned jointly determine, after consultation with the appropriate State educational agency, that a local education agency is able to do so.*

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Calendar No. 879

84TH CONGRESS, 1st Session } SENATE { REPORT No. 872

PROCEEDINGS AGAINST EUGENE C. JAMES FOR CONTEMPT OF THE SENATE

JULY 14, 1955.—Ordered to be printed

Mr. DOUGLAS, from the Committee on Labor and Public Welfare, submitted the following

REPORT

[To accompany S. Res. 135]

The subcommittee of the Committee on Labor and Public Welfare investigating welfare and pension funds subject to collective bargaining as authorized by Senate Resolution 225 as amended, 83d Congress, 2d session, and superseded by Senate Resolution 40, 84th Congress, 1st session, caused to be issued a subpena duces tecum to Eugene C. James, 1640 West Van Buren Street, Chicago, Ill.

Attendance pursuant to said subpena, which was duly served, was had on March 29, 1955, at which time the witness appeared.

The said Eugene C. James, pursuant to said subpena and in compliance therewith, appeared before the said subcommittee to give testimony and produce documents and records as required by virtue of Senate Resolution 40, 84th Congress, 1st session. Eugene C. James, having appeared as a witness and having been asked questions, and to produce documents and records, which questions, documents and records were pertinent to the subject matter under inquiry, made answer as appears in the record of the said hearings on March 29, 1955, at Washington, D. C., which record is annexed hereto and made a part hereof and designated "Annex I."

As a result of said Eugene C. James' refusal to answer questions and to produce documents and records pursuant to the said inquiry, as appears in the record annexed and designated "Annex I," the committee was prevented from receiving testimony, documents, and records concerning the matter committed to said committee in accordance with the terms of the subpena served upon this witness.

The committee was, therefore, deprived of testimony, documents, and records pursuant to the committee's inquiry propounded to and demanded of Eugene C. James, pertinent to the subject matter which under Senate Resolution 40, 84th Congress, 1st session, the said committee was instructed to investigate, and the refusal of the witness

65353—55——1

Senator DOUGLAS. Mr. James, would you raise your right hand? Do you solemnly swear that the testimony which you are about to give will be the truth, the whole truth, and nothing but the truth, so help you God?

TESTIMONY OF EUGENE C. JAMES, CHICAGO, ILL.

Mr. JAMES. I do.

Senator DOUGLAS. Would you give your name and address?

Mr. JAMES. Eugene C. James, 1640 West Van Buren, Chicago.

Senator DOUGLAS. And what is your position, Mr. James?

Mr. JAMES. I respectfully refuse to answer on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. Are you secretary-treasurer——

Mr. JAMES. I respectfully refuse to answer on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. Of the Laundry Workers International Union?

Mr. JAMES. I respectfully refuse to answer on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. I would like to point out, Mr. James, that you have refused to answer before finding out what my questions are.

Are you secretary-treasurer of the Laundry Workers International Union, Mr. James?

Mr. JAMES. I respectfully refuse to answer on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. What is your salary as secretary-treasurer of the Laundry Workers International Union?

Mr. JAMES. I respectfully refuse to answer on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. Mr. James, I must direct you to answer these questions, sir.

Mr. JAMES. I respectfully refuse to answer on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. Were you Secretary of the Illinois Harness Horsemen's Association?

Mr. JAMES. I respectfully refuse to answer on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. What was your salary in connection with the Illinois Harness Horsemen's Association?

Mr. JAMES. I didn't understand the question.

Senator DOUGLAS. What was your salary as secretary of the Illinois Harness Horsemen's Association?

Mr. JAMES. I respectfully refuse to answer on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. Did you have the headquarters of the Illinois Harness Horsemen's Association in the same office as that of the Laundry Workers International Union?

Mr. JAMES. I respectfully refuse to answer on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. What was your office in local 46 of the Laundry Workers Union, the Chicago local?

Mr. JAMES. I respectfully refuse to answer on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. What was the salary that you received from the local union?

Mr. JAMES. I respectfully refuse to answer on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. Is it true that you received approximately $74,000 from the social security department as a 5 percent allowance upon contributions forwarded to the social security department by the employers of members of your union?

Mr. JAMES. I respectfully refuse to answer on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. What did you do with the $74,000?

Mr. JAMES. What did you say?

Senator DOUGLAS. What did you do with the $74,000?

Mr. JAMES. I respectfully refuse to answer on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. Is it true that you received a total of $85,000 from the Security Mutual Life Insurance Co. at Binghamton, N. Y., made out to the order of the Laundry Workers International Union, but sent to you in Chicago?

to answer questions and produce documents and records as set forth in annex I is a violation of the subpena duces tecum under which the witness was directed to appear, answer questions, and produce documents and records pertinent to the subject under inquiry, and his persistent refusal to answer questions and produce the aforesaid documents and records deprived the committee of necessary and pertinent information and places this witness in contempt of the United States Senate.

After reviewing the testimony and other facts as set forth herein, the committee duly adopted the following resolution:

Resolved, That the President of the Senate certify the report of the Committee on Labor and Public Welfare of the United States Senate as to the refusal of Eugene C. James to answer a series of questions and to produce documents and records before the said committee, together with all the facts in connection therewith, under the seal of the United States Senate, to the United States attorney for the District of Columbia, to the end that the said Eugene C. James may be proceeded against in the manner and form provided by law.

A copy of the committee minutes of July 12, 1955, follows. A copy of the subpena issued to Eugene C. James appears in annex I at page 576.

COMMITTEE ON LABOR AND PUBLIC WELFARE

MINUTES OF A COMMITTEE MEETING, JULY 12, 1955

The committee met at 10 a. m. in room P–63, Capitol. There were present Chairman Hill and Senators Murray, Neely, Douglas, Lehman, Kennedy, McNamara, Ives, Purtell, and Bender.

The chairman presented the matter of a subcommittee recommendation with respect to the contemptuous conduct of Eugene C. James.

Senator Douglas, chairman of the Subcommittee on Welfare and Pension Funds, stated to the committee that the witness, Eugene C. James, an officer of a union, repeatedly, consistently, and arbitrarily had refused to answer questions put to him throughout counsel's and members of the committee's examination of said witness, and had repeatedly refused to produce documents and records of the union relating to welfare funds called for by the subpena duces tecum duly served upon him, that his refusal, therefore, was improper and contemptuous; and that, by unanimous vote of a quorum of subcommittee members, it was recommended that James be cited for contempt.

The chairman presented to the committee a draft report on the entire matter for the committee's consideration and the committee duly adopted the said report and instructed the chairman to present said report to the United States Senate.

Therefore, upon motion by Senator Douglas, duly seconded by Senator Ives, it was resolved that the committee present to the United States Senate, for its immediate action, a resolution requesting the United States attorney for the District of Columbia to proceed against the said Eugene C. James in the manner and form provided by law.

ANNEX I

WELFARE AND PENSION PLANS INVESTIGATION

UNITED STATES SENATE,
COMMITTEE ON LABOR AND PUBLIC WELFARE,
SUBCOMMITTEE ON WELFARE AND PENSION FUNDS,
Washington, D. C., Tuesday, March 29, 1955.

The subcommittee reconvened at 2:10 p. m., Senator Paul H. Douglas (chairman) presiding.

Senator DOUGLAS. The committee will come to order.

The first witness this afternoon is Mr. E. C. James.

* * * * * * *

Senator DOUGLAS. Mr. James, will you come forward, please?

* * * * * * *

Mr. JAMES. I respectfully refuse to answer on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. Mr. Leece. After each question, I shall have to direct you to answer.

Mr. LEECE. Mr. James, the subpena to which I have referred, which was served upon you personally on March 10, called for the following records: No. 1, a copy of the letter which you wrote under date of July 15, 1951, to Security Mutual Life Insurance Co. and/or Haines B. Wickes of that company, and wherein mention was made of payment by the insurance company for expenses incurred by the Laundry Workers International Union.

May I ask, do you have that record with you?

Mr. JAMES. I respectfully refuse to answer on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. Mr. James, I must direct you to answer the question.

Mr. JAMES. I respectfully refuse to answer on the ground that the answer may tend to incriminate me.

Mr. LEECE. Item 2, a copy of the letter which you wrote under date of July 27, 1951, to Security Mutual Life Insurance Co. and/or Haines B. Wickes of that company, and wherein mention was made of payment by the insurance company for expenses incurred by the Laundry Workers International Union.

Do you have that record with you at this time?

Mr. JAMES. I respectfully refuse to answer on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. I must direct you to answer that question.

Mr. JAMES. I respectfully refuse to answer on the ground that the answer may tend to incriminate me.

Mr. LEECE. Item 3, any memoranda, receipts, bankbooks, canceled checks, or other documents showing your disposition of the sum of $85,000 paid you as an officer of the Laundry Workers International Union by the Security Mutual Life Insurance Co. during the period January 1, 1951, through September 30, 1953.

Do you have those records with you, Mr. James?

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. I must direct you to answer that question.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Mr. LEECE. Item 4, copy of the bargaining agreement dated July 9, 1951, between the Greater Chicago Hotel Association and Laundry Workers International Union, Local 46, Chicago, Ill.

Do you have that document with you, Mr. James?

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. I must direct you to answer that question.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Mr. LEECE. Item 5, all records of receipts and disbursements, including all records showing contributions received and premiums and expenses paid of the local 46 welfare fund, hotel division, of which you were a trustee during the period April 1, 1951, through March 31, 1953.

Do you have those records with you, Mr. James?

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. I must direct you to answer that question.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Mr. LEECE. Item No. 6, all canceled checks and deposit slips for the account of the Hotel Laundry Workers International Union, Local 40, welfare fund, maintained in the Central Nations' Bank in Chicago during the period July 9, 1951, through March 16, 1953.

Do you have those records with you, Mr. James?

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. I must direct you to answer that question, Mr. James.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. Mr. James, I don't know whether you have consulted attorneys or not, but I must warn you that in my judgment you are laying yourself

Mr. JAMES. I respectfully refuse to answer on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. What did you do with this $85,000?

Mr. JAMES. I respectfully refuse to answer on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. Is it true that Mr. Saperstein sent to you approximately $900,000?

Mr. JAMES. I respectfully refuse to answer on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. Is it true that this $900,000, minus benefits which you had paid, was the difference between the amounts which had been contributed by employers and sent by the social-security department to Mr. Saperstein, but not forwarded by Mr. Saperstein to Security Mutual Life Insurance Co.?

Mr. JAMES. I respectfully refuse to answer on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. Did you furnish Mr. Saperstein with money with which—some of which he used to purchase the California Life Insurance Co.?

Mr. JAMES. I respectfully refuse to answer on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. Is it true that you continued to receive the 5 percent of the insurance as carried by the California Life Insurance Co.?

Mr. JAMES. I respectfully refuse to answer on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. Mr. Leece?

Mr. LEECE. Mr. James, why are you here today?

Mr. JAMES. I respectfully refuse to answer on the ground that the answer may tend to incriminate me.

Mr. LEECE. Was a subpena calling for your presence here today served upon you in Chicago within the last 2 weeks?

Mr. JAMES. I respectfully refuse to answer on the ground that the answer may tend to incriminate me.

Mr. LEECE. Are you represented by counsel?

Mr. JAMES. I didn't hear the question.

Mr. LEECE. Are you represented by an attorney?

Mr. JAMES. I respectfully refuse to answer on the ground that the answer may tend to incriminate me.

Mr. LEECE. Mr. Chairman, I think the record should show, No. 1, that a subpena was issued or served, rather, personally upon Mr. James on March 10, 1955, by Mr. Blake E. Turner, of the staff of this subcommittee.

The subpena was served upon Mr. James at 1640 West Van Buren Street, Chicago, Ill., at 2:28 p. m. on March 10.

I might also say that this subpena was issued by the chairman, pursuant to authority granted him by a majority vote of the subcommittee on March 7. The subpena called for the production of 11 different items of books, records, and miscellaneous accounts.

May I ask you, Mr. James, if you have brought those records with you in response to that subpena?

Mr. JAMES. I respectfully refuse to answer on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. Mr. James, I would like to instruct you that the fifth amendment is no defense against the production of books and records.

It can apply to your personal testimony, but not to the failure to produce records which have been called for. The failure to produce these records is in my judgment a clear act of contempt, unconscionable.

Mr. LEECE. Mr. Chairman, I think the record should also show that Senators Douglas and Allott are now sitting, and that pursuant to the rules of the subcommittee, the presence of two Senators constitutes a quorum.

Senator DOUGLAS. And that the Senate is not in session, and there is, therefore, a legal process.

Senator ALLOTT. And also that any two Senators, including the chairman, have been authorized under the rules of the subcommittee to sit.

Senator DOUGLAS. That is correct.

Mr. James, in my judgment, though I am not a lawyer, you are in contempt of the Senate now, and we would have to ask the full committee and the Senate, in my judgment, that you be adjudged in contempt.

Doesn't this make any impression upon you, Mr. James?

Mr. JAMES. Is that in the form of a question, Mr. Chairman?

Senator DOUGLAS. Yes.

Mr. LEECE. I will read it again.

Any memorandums, receipts, bankbooks, canceled checks, or other documents showing your disposition of moneys paid you as an individual, or as an officer of the Laundry Workers International Union, by Louis B. Saperstein, the Harlew Agency, Inc., the Harlew Agency of Illinois, or the Harlew Agency of California, during the period from April 1, 1950, through September 30, 1954.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. I must direct you to answer that question, Mr. James.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Mr. LEECE. Mr. Chairman, with your permission, I would move the admission of the subpena, together with the list of documents subpenaed for the record.

Senator DOUGLAS. That will be done.

(The subpena referred to was marked exhibit No. 33.)

EXHIBIT No. 33

UNITED STATES OF AMERICA

CONGRESS OF THE UNITED STATES

To Mr. Eugene C. James: Business: 1640 West Van Buren, Chicago, Ill.; Home: 823 South Main Street, Wheaton, Ill., *Greeting:*

Pursuant to lawful authority, you are hereby commanded to appear before the Senate Subcommittee on Welfare and Pension Funds, of the Senate Committee on Labor and Public Welfare of the Senate of the United States, on March 17, 1955, at 10 o'clock a. m., at their committee room P–63, The Capitol, Washington, D. C., then and there to testify what you may know relative to the subject matters under consideration by said committee, and produce the following:

See attached list.

Hereof fail not, as you will answer your default under the pains and penalties in such cases made and provided.

To Blake E. Turner, Investigator, to serve and return.

Given under my hand, by order of the committee, this 1st day of March, in the year of our Lord 1955.

PAUL H. DOUGLAS,
Chairman, Senate Subcommittee on Welfare and Pension Funds.

MARCH 10, 1955.

I made service of the within subpena by personal service on the within-named Eugene C. James, at 1640 West Van Buren, Chicago, Ill., at 2:28 o'clock p. m., on the 10th day of March 1955.

BLAKE E. TURNER, *Investigator.*

SUBPENA EUGENE C. JAMES

1. Copy of the letter which you wrote, under date of July 15, 1951, to Security Mutual Life Insurance Co., and/or Haines B. Wickes of that company and wherein mention was made of payment by the insurance company for expenses incurred by the Laundry Workers' International Union.

2. Copy of the letter which you wrote, under date of July 27, 1951, to Security Mutual Life Insurance Co. and/or Haines B. Wickes of that company and wherein mention was made of payment by the insurance company for expenses incurred by the Laundry Workers' International Union.

3. Any memorandums, receipts, bankbooks, canceled checks, or other documents showing your disposition of the sum of $85,000 paid you as an officer of the Laundry Workers' International Union by the Security Mutual Life Insurance Co. during the period January 1, 1951, through September 30, 1953.

4. Copy of the bargaining agreement, dated July 9, 1951, between the Greater Chicago Hotel Association and Laundry Workers' International Union Local 46, Chicago, Ill.

5. All records of receipts and disbursements, including all records showing contributions received and premiums and expense paid, of the local 46 welfare fund (hotel division) of which you were a trustee, during the period from April 1, 1951, through March 31, 1953.

open not only to contempt charges, but to conviction on the ground of contempt, and this is a very serious matter.

You have been in sessions with this committee the last few days. I think you have seen that we have not tried to bulldoze witnesses or take unfair advantage of them in any way. We have allowed them their day in court, but I think you are treating the Senate and the Government of the United States in a contemptuous manner by refusing to either produce these documents or make any statement about them, and I must—I don't know whether you have attorneys or not, but I think if you have, they have given you very bad advice.

If you do not have them, I would certainly urge you to get attorneys as quickly as possible, and I would be willing to adjourn the session for 15 minutes until you did get an attorney.

Mr. Leece?

Mr. LEECE. Item 7. All canceled checks and deposit slips for the account E. C. James, 1640 West Van Buren, maintained in the Merchants National Bank of Chicago, for the period January 9, 1951, through November 30, 1954.

Do you have those records with you, Mr. James?

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. Mr. James, I must direct you to answer that question. Would you please answer that question?

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Mr. LEECE. Item 8, all records showing the receipt and disbursement by you of moneys received by you as welfare deputy for Laundry Workers' International Union, Local No. 46, Chicago, during the period October 1, 1950, through November 30, 1954.

Do you have those records with you, Mr. James?

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. I must direct you to answer that question.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Mr. LEECE. Item 9, copies of correspondence or memorandums wherein you informed the Greater Chicago Hotel Association or any member of that association and/or the trustees of the social-security department, Laundry Workers' International Union, of the receipt of dividends paid by the Security Mutual Life Insurance Co., under dates of July 9, 1952, and July 22, 1953, to the trustees of local 46, welfare and hotel division of the Laundry Workers' International Union, AFL.

Do you have those records with you, Mr. James?

Mr. JAMES. I don't understand that question.

Mr. LEECE. I will reread it.

Item 9, copies of correspondence or memorandums wherein you informed the Greater Chicago Hotel Association or any member of that association, and/or the trustees of the social security department, Laundry Workers International Union, of the receipt of dividends paid by the Security Mutual Life Insurance Co. under dates of July 9, 1952, and July 22, 1953, to the trustees of local 46, welfare and hotel division of the Laundry Workers International Union.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. I must direct you to answer that question, Mr. James.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Mr. LEECE. Item 10, copies of your Federal tax returns for the years 1949 through 1953, inclusive. Do you have those records with you?

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. I must direct you to answer that question, Mr. James.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Mr. LEECE. Item 11, any memorandums, receipts, bankbooks, canceled checks, or other documents showing your disposition of moneys paid you as an individual or as an officer of the Laundry Workers International Union, by Louis B. Saperstein, the Harlew Agency, Inc., the Harlew Agency of Illinois, the Harlew Agency of California, during the period from April 1, 1950, through September 30, 1954.

Do you have those records with you, Mr. James?

Mr. JAMES. I don't understand that question, Mr. Leece.

Mr. JAMES. I didn't understand the question.

Mr. LEECE. Have you ever been an officer of the Foundry Workers International Union?

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. I must direct you to answer that question, Mr. James.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Mr. LEECE. Have you ever received a salary or compensation of any kind from the International Brotherhood of Teamsters?

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. I must direct you to answer that question.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Mr. LEECE. Have you ever been identified with local 129 of the laundry workers in Detroit, either as a member or as an officer?

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. I must direct you to answer that question.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Mr. LEECE. Mr. James, there has been testimony over the past several days to the effect that something over $900,000 in premiums paid by the social security department to the broker in this case, namely, Mr. Louis B. Saperstein, was never, in fact, paid to the insurance company, but rather, diverted by that agent and paid to the Laundry Workers International Union through checks addressed to you in Chicago.

Did you, in fact, receive any of those moneys?

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. I must direct you to answer that question.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator ALLOTT. May I interpose a question?

Senator DOUGLAS. Yes.

Senator ALLOTT. If you did not receive those moneys, did those moneys go into the fund of the International Laundry Workers Union?

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. I must direct you to answer the question.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator ALLOTT. In other words, you do contend that it is self-incriminating for you to put the money where it was supposed to go, is that right?

Mr. JAMES. Is that in the form of a question?

Senator ALLOTT. That is in the form of a question.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator ALLOTT. I would like to have him specially directed to answer that question.

Senator DOUGLAS. I will direct you to answer that question.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator ALLOTT. That is all I have, Mr. Chairman.

Mr. LEECE. Were these funds received by you, Mr. James, pursuant to any agreement you might have had with Mr. Saperstein?

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Mr. LEECE. What disposition was made of these funds by you?

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. I must direct you to answer that question.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Mr. LEECE. Were these funds paid to the Laundry Workers International Union?

6. All canceled checks and deposit slips for the account "Hotel Laundry Workers' International Union No. 46 Welfare Fund" maintained in the Central National Bank in Chicago during the period from July 9, 1951, through March 16, 1953.

7. All canceled checks and deposit slips for the account "E. C. James, 1640 West Van Buren" maintained in the Merchants' National Bank of Chicago, for the period January 9, 1951, through November 30, 1954.

8. All records showing the receipt and disbursement by you of moneys received by you as welfare deputy for Laundry Workers' International Union Local 46, Chicago, during the period October 1, 1950, through November 30, 1954.

9. Copies of correspondence or memorandums wherein you informed the Greater Chicago Hotel Association, or any member of that association, and/or the trustees of the social-security department, Laundry Workers' International Union, of the receipt of dividends paid by the Security Mutual Life Insurance under dates of July 9, 1952, and July 22, 1953, to the trustees of local No. 46 welfare and hotel division of the Laundry Workers' International Union, A. F. of L.

10. Copies of your Federal tax returns for the years 1949 through 1953, inclusive.

11. All memorandoms, receipts, bankbooks, canceled checks, or other documents showing your disposition of moneys paid you as an individual or as an officer of the Laundry Workers' International Union by Louis B. Saperstein, Harlew Agency, Inc., Harlew Agency of Illinois, or Harlew Agency of California, during the period from April 1, 1950, through September 30, 1954.

Senator ALLOTT. May I see that?

Mr. LEECE. Yes, sir.

Senator DOUGLAS. Mr. Leece, will you continue?

Mr. LEECE. Are you presently an officer in local 46 in Chicago of the Laundry Workers International Union, Mr. James?

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. I direct you to answer that question.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Mr. LEECE. Are you an international officer of the Laundry Workers International Union?

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. I must direct you to answer that question.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Mr. LEECE. What salaries do you receive from either local 46 or from the international union, Mr. James?

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. I must direct you to answer that question, Mr. James.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Mr. LEECE. Have you ever been identified with any other union, either as a member or as an officer?

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. I must direct you to answer that question, Mr. James.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator IVES. Could you talk a little louder? I just got here. My hearing may be a little poor, but I can't hear you.

Mr. JAMES. Are you addressing that question to me?

(Discussion off the record.)

Mr. LEECE. Have you ever been an officer with local 23814 of the Music Maintenance Workers, Mr. James?

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. I direct you to answer.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Mr. LEECE. Have you ever been an officer of the Foundry Workers International Union?

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. I must direct you to answer the question.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Mr. LEECE. Were they paid by you to the social security department of the Laundry Workers International Union?

Mr. JAMES. I didn't understand the question.

Mr. LEECE. Were these funds paid by you to the social security department of the Laundry Workers International Union?

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. I must direct you to answer the question.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Mr. LEECE. Are you now, or have you ever been associated in any way with the social security department of the Laundry Workers International Union?

Mr. JAMES. Mr. Leece, will you state that question again?

Mr. LEECE. Yes. Are you now, or have you ever been officially associated with the social security department of the Laundry Workers International Union?

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. I must direct you to answer that question.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Mr. LEECE. Mr. James, there has also been testimony that funds totaling $85,000 were paid to you over about a 2-year period by the Security Mutual Life Insurance Co. in the form of checks payable to you monthly in the amount of $2,500.

Did you receive those moneys?

Mr. JAMES. I didn't understand that, either.

Mr. LEECE. I will repeat the question.

Mr. JAMES. Thank you.

Mr. LEECE. There has been testimony that over a 2-year period, funds totaling $85,000 in the form of monthly checks amounting to $2,500 per month, were paid to you by that insurance company.

Did you, in fact, receive those moneys?

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. I must direct you to answer the question.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. Mr. James, don't you realize that in making this constant refusal to answer innocent questions that you are putting your own international union in disrepute; that you are casting suspicion upon your associates and doing immeasurable damage?

Mr. JAMES. (No response.)

Senator IVES. I would like to ask a question there.

Is there any question that we can ask you the answer to which will not incriminate you?

Mr. JAMES. I didn't hear you.

Senator IVES. Is there any question that we can possibly ask you here the answer to which will not incriminate you?

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator IVES. I must insist that you answer that question.

Do you mean to tell me that you are so guilty that you can't answer anything at all?

Mr. JAMES. Is that in the form of a question?

Senator IVES. That is in the form of a question.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Mr. Chairman, it doesn't necessarily mean that a man is guilty because he refuses to answer questions.

Senator DOUGLAS. I understand.

Senator IVES. I understand that.

Mr. JAMES. From the Senator's remark, I am definitely guilty according to what he just said.

Senator IVES. Well, your answer could have been "No."

Mr. JAMES. Is that in the form of a question?

Senator IVES. No; it is in the form of what you could do.

Senator ALLOTT. In other words, Mr. James, to state this clearly for the record, you are sworn to tell the truth. In fact, the questions which have been asked, you refused to answer. You said that you refused to answer because they would incriminate you. In fact, when such answers would not have done so, you have violated the oath which you have taken and perjured yourself. Do you understand that?

I am asking you a question.

Mr. JAMES. I respectfully refuse to answer that question on the ground that the answer may tend to incriminate me.

Senator ALLOTT. You understand if you give that answer when the question and the answer are not questions which might tend to incriminate you, that you are perjuring yourself? Do you understand that?

Mr. JAMES. Well, could I ask a question?

Who is to determine whether it will incriminate me or not? You or me?

Senator ALLOTT. That is for you to decide. But eventually a court will decide it, sir.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Mr. LEECE. What services were you to perform or was the international to perform, Mr. James, in return for the $2,500 a month being paid to you by the carrier in this case?

Mr. JAMES. Would you repeat the question?

Mr. LEECE. What services were you as an officer or was the international to perform in return for the $2,500 a month compensation you were receiving from Security Mutual Life Insurance Co.?

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer might tend to incriminate me.

Senator DOUGLAS. I must direct you to answer that question.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer might tend to incriminate me.

Mr. LEECE. Can you give me one reason why that question should incriminate you, Mr. James?

Mr. JAMES. I didn't hear that question.

Mr. LEECE. Can you give me a reason why that would incriminate you in any way, the answer to that question?

Mr. JAMES. I respectfully refuse to answer that question on the ground that the answer might tend to incriminate me.

Senator DOUGLAS. I must direct you to answer the question.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Mr. LEECE. Was not the social security department already receiving a 5-percent discount of premium for services rendered in the administration of this welfare plan?

Mr. JAMES. I respectfully refuse to answer that question on the ground that the answer might tend to incriminate me.

Senator DOUGLAS. I must direct you to answer that question.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer might tend to incriminate me.

Mr. LEECE. Were any of these checks, these $2,500 checks of the Security Mutual Life Insurance Co., payable to you as the administrator of the welfare fund of the Laundry Workers International Union?

Mr. JAMES. I respectfully refuse to answer that question on the ground that the answer might tend to incriminate me.

Senator DOUGLAS. I must direct you to answer that question.

Mr. JAMES. I respectfully refuse to answer that question on the ground that the answer might tend to incriminate me.

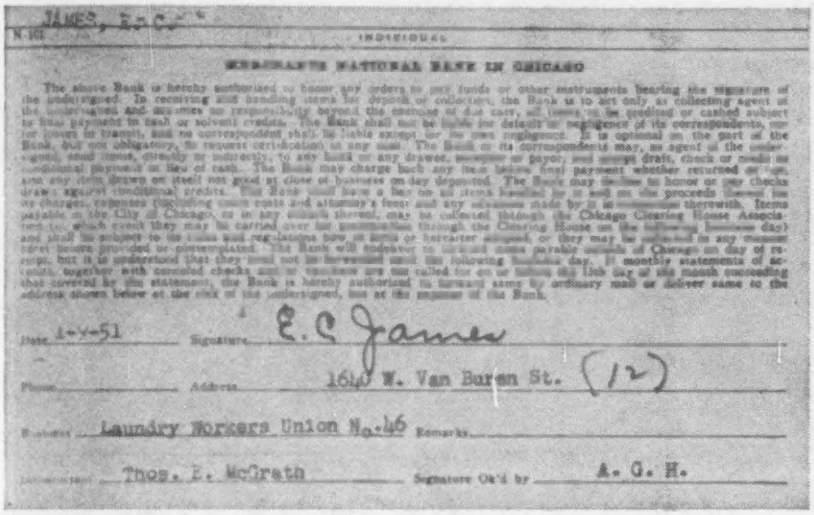
Mr. LEECE. Have you at any time served as a welfare deputy for local No. 46 in Chicago of the Laundry Workers International Union?

Mr. JAMES. I respectfully refuse to answer that question on the ground that the answer might tend to incriminate me.

Senator DOUGLAS. I must direct you to answer that question.

Mr. JAMES. I respectfully refuse to answer that question on the ground that the answer might tend to incriminate me.

EXHIBIT 34–A



JAMES, E. C.

INDIVIDUAL

MERCHANTS NATIONAL BANK IN CHICAGO

The above Bank is hereby authorized to honor any orders to pay funds or other instruments bearing the signature of the undersigned. In receiving and handling items for deposit or collection, the Bank is to act only as collecting agent of the undersigned and assumes no responsibility beyond the exercise of due care, all items to be credited or cashed subject to final payment in cash or solvent credits. The Bank shall not be liable for default or negligence of its correspondents, nor for losses in transit, and no correspondent shall be liable except for its own negligence. It is optional on the part of the Bank, but not obligatory, to request certification in any case. The Bank or its correspondents may, as agent of the undersigned, send items, directly or indirectly, to any bank or any drawee, acceptor or payor, and accept draft, check or credit in conditional payment in lieu of cash. The Bank may charge back any item at any time, even payment whether returned or not, and any item drawn on itself not good at close of business on day deposited. The Bank may decline to honor or pay checks drawn against conditional credits. The Bank shall have a lien on all items handled for it and on the proceeds thereof for its charges, expenses (including court costs and attorney's fees) and any advances made by it in connection therewith. Items payable in the City of Chicago, or in any suburb thereof, may be collected through the Chicago Clearing House Association to which event they may be carried over one intervening Clearing House day and shall be subject to the rules and regulations now in force or hereafter adopted, or they may be collected in any manner there beyond provided or contemplated. The Bank will endeavor to forward items payable outside of Chicago on day of receipt, but it is understood that they need not be forwarded until the following business day. If monthly statements of account, together with cancelled checks and/or vouchers are not called for on or before the 15th day of the month succeeding that covered by the statement, the Bank is hereby authorized to forward same by ordinary mail or deliver same to the address shown below at the risk of the undersigned, but at the expense of the Bank.

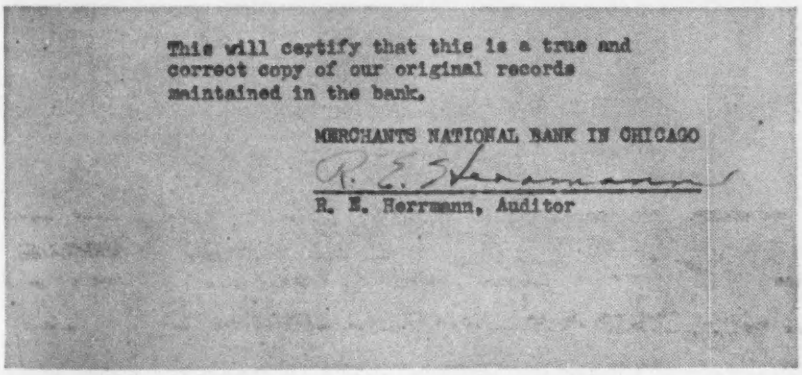
Date 1-7-51 Signature E. C James

Phone _____ Address 1640 W. Van Buren St. (12)

Business Laundry Workers Union No. 46 Remarks _____

Introduced by Thos. E. McGrath Signature Ck'd by A. G. H.

EXHIBIT 34–B



This will certify that this is a true and correct copy of our original records maintained in the bank.

MERCHANTS NATIONAL BANK IN CHICAGO

R. E. Herrmann

R. E. Herrmann, Auditor

Mr. LEECE. I also have a photostatic copy of 12 ledger sheets that account beginning January 9, 1951, and ending November 11, 1954.

Senator DOUGLAS. That will be made a part of the record.

(The documents referred to were marked exhibits 35–A to 35–L.)

Mr. LEECE. By whom were you appointed welfare deputy of local No. 46?

Mr. JAMES. I respectfully refuse to answer that question on the ground that the answer might tend to incriminate me.

Senator DOUGLAS. I must direct you to answer that question.

Mr. JAMES. I respectfully refuse to answer that question on the ground that the answer might tend to incriminate me.

Mr. LEECE. Will you state your duties as welfare deputy for local No. 46?

Mr. JAMES. I respectfully refuse to answer that question on the ground that the answer might tend to incriminate me.

Senator DOUGLAS. I must direct you to answer that question.

Mr. JAMES. I respectfully refuse to answer that question on the ground that the answer might tend to incriminate me.

Mr. LEECE. Were you paid any money for services rendered by you as welfare deputy for local No. 46?

Mr. JAMES. I didn't understand that question, Mr. Leece.

Mr. LEECE. Did the social security department of the Laundry Workers International Union pay you any moneys for services rendered by you as welfare deputy for local No. 46?

Mr. JAMES. I respectfully refuse to answer that question on the ground that the answer might tend to incriminate me.

Senator DOUGLAS. I must direct you to answer that question, Mr. James.

Mr. JAMES. I respectfully refuse to answer that question on the ground that the answer might tend to incriminate me.

Senator DOUGLAS. Mr. James, I suppose it is useless to argue with you. But I am trying to save you from yourself. You are casting a cloud of suspicion upon yourself, upon your associates, upon your international union which you are secretary-treasurer of, on a large number of other people also. And at the very least, it would seem to me that you could do what Mr. Saperstein did this morning and answer specific questions, and then only claim the fifth amendment on those points which you think really would incriminate you.

Mr. LEECE. Did you, Mr. James, on January 9, 1951, open a special——

Senator DOUGLAS. Let it be said that I did not approve of Mr. Saperstein's refusing to answer the crucial questions; but he at least met us one-quarter of the way.

Mr. LEECE. Did you on January 9, 1951, Mr. James, open a special account at the Merchants National Bank in Chicago in the name of E. C. James, 1640 West Van Buren Street?

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer might tend to incriminate me.

Senator DOUGLAS. I must direct you to answer that question, Mr. James.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer might tend to incriminate me.

Mr. LEECE. Was this account opened by you to handle disbursements in connection with services rendered by you and your associates in the administration of the welfare fund for your Chicago local?

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer might tend to incriminate me.

Senator DOUGLAS. I must direct you to answer that question.

Mr. JAMES. I respectfully refuse to answer that question on the ground that the answer might tend to incriminate me.

Mr. LEECE. Mr. Chairman, I have a photostatic copy of a signature card certified by the Merchants National Bank of Chicago as a true copy of the original signature card executed by Mr. James which indicates that Mr. E. C. James is authorized to write against the account.

Senator DOUGLAS. Would you identify your signature, Mr. James?

Is that your signature?

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer might tend to incriminate me.

Senator DOUGLAS. That will be introduced in evidence.

(The documents referred to were marked exhibits 34–A and B.)

EXHIBIT 35–B

MERCHANTS NATIONAL BANK IN CHICAGO, ILLINOIS

E. C. JAMES
1640 WEST VAN BUREN STREET
CHICAGO 12, ILLINOIS

This will certify that this is a true and correct copy of our original records maintained in the bank.

MERCHANTS NATIONAL BANK IN CHICAGO

R. E. Herrmann

R. E. Herrmann, Auditor

CHECKS AND OTHER DEBITS—READ ACROSS		DEPOSITS AND OTHER CREDITS	DATE	BALANCE
BALANCE BROUGHT FORWARD (F			JA 1'51	3,090.66
100.00-			JAN 1'51	2,990.66 *
100.00-	17.00-			
100.00-	100.00-			
17.00-	17.00-		JAN 1'51	4,639.66 *
17.00-			JAN 5'51	4,622.66 *
100.00-	17.00-		JAN 7'51	4,505.66 *
2,000.00-	2,000.00-		JAN 8'51	505.66 *
100.00-			JAN10'51	405.66 *
		1,720.24	JA 9'51	2,125.90 *
200.00-			JA 13'51	1,925.90 *
100.00-			JA 16'51	1,825.90 *
100.00-	100.00-		JA 18'51	1,625.90 *
100.00-			JA 19'51	1,525.90 *
100.00-			JA 20'51	1,425.90 *
100.00-			JA 25'51	1,325.90 *
			JA 30'51	1,225.90 *
100.00-			AUG 6'51	1,125.90 *
100.00-	100.00-		AUG 8'51	925.90 *
100.00-			AUG 9'51	825.90 *
100.00-	100.00-		AUG13'51	625.90 *
100.00-			AUG16'51	525.90 *
100.00-			AUG23'51	425.90 *
		1,733.60	AUG30'51	2,159.50 *
100.00-			SEP11'51	2,059.50 *
100.00-	100.00-			
100.00-			SEP12'51	1,759.50 *
100.00-			SEP13'51	1,659.50 *
		1,708.32	SEP14'51	3,367.82 *
			SEP17'51	3,167.82 *
100.00-	100.00-			
100.00-	100.00-			
100.00-	100.00-		OCT 5'51	2,767.82 *
			OCT 8'51	2,667.82 *
100.00-			OCT 9'51	2,567.82
100.00-			OCT12'51	2,467.82
100.00-				

EXHIBIT 35-A

MERCHANTS NATIONAL BANK IN CHICAGO, ILLINOIS — SHEET NO. 1

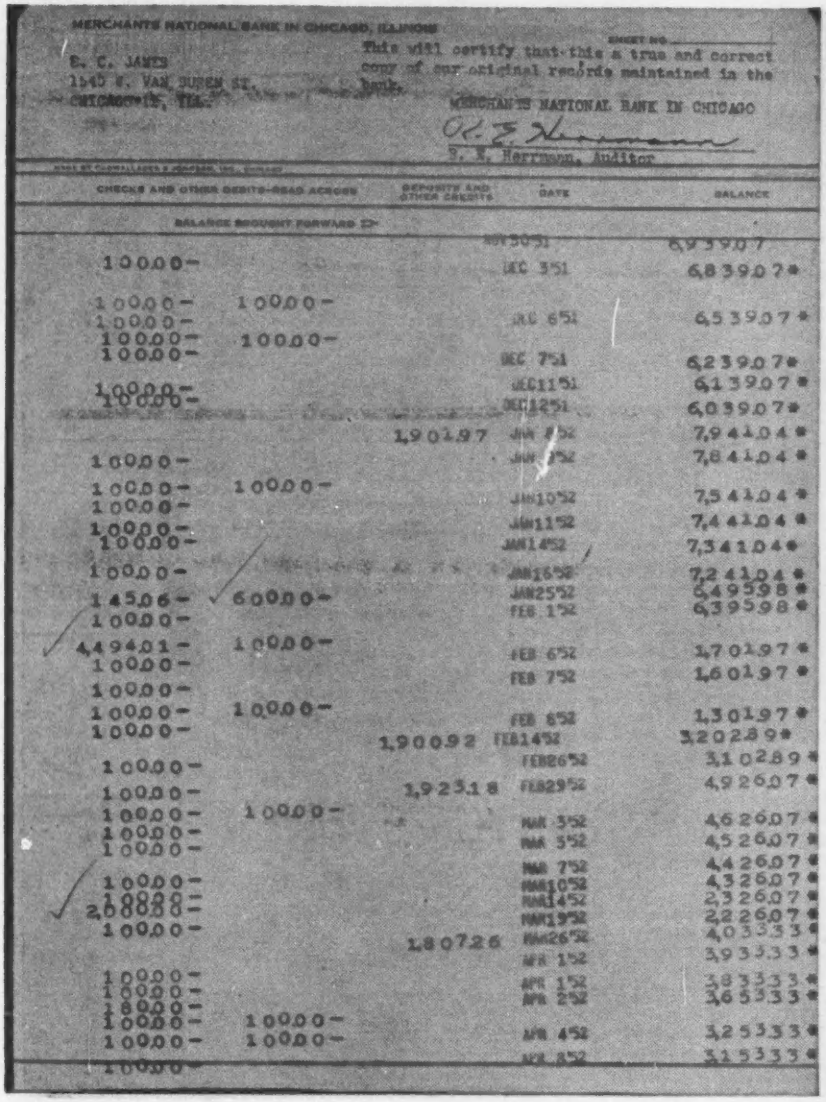
E. C. JAMES
164 WEST VAN BUREN STREET
CHICAGO 12, ILLINOIS

This will certify that this is a true and correct copy of our original records maintained in the bank.

MERCHANTS NATIONAL BANK IN CHICAGO
C. E. Stenmann
Accountant, Auditing

CHECKS AND OTHER DEBITS—READ ACROSS			DEPOSITS AND OTHER CREDITS	DATE	BALANCE
BALANCE BROUGHT FORWARD 12/					
			653.31	JAN 9 51	653.31
40.00-	40.00-				
40.00-				JAN19 51	533.31
40.00-	40.00-			JAN22 51	453.31
40.00-				JAN23 51	413.31
40.00-				JAN29 51	373.31
40.00-				FEB 2 51	333.31
		CR	.52		
			800.00	FEB 8 51	1,133.83
				FEB21 51	1,132.58
1.25-					
40.00-	40.00-			FEB23 51	1,052.58
40.00-	40.00-			FEB26 51	972.58
40.00-	40.00-			MAR 1 51	892.58
40.00-				MAR 1 51	852.58
40.00-			982.80	MAR 2 51	1,795.38
40.00-				MAR30 51	1,755.38
40.00-	40.00-				
40.00-	40.00-			APR 2 51	1,595.38
40.00-				APR10 51	1,555.38
			1,934.58	APR11 51	3,489.96
300.00-				APR13 51	3,189.96
			1,707.50	APR23 51	4,897.46
40.00-				MAY 1 51	4,857.46
100.00-	100.00-				
100.00-				MAY 3 51	4,557.46
100.00-	100.00-				
100.00-				MAY 4 51	4,257.46
40.00-				MAY 7 51	4,217.46
345.00-				MAY11 51	3,872.46
8.50-	100.00-			MAY16 51	3,763.96
			1,677.70	MAY24 51	5,441.66
100.00-	17.00-				
100.00-	17.00-				
100.00-	17.00-			MAY29 51	5,099.66

EXHIBIT 35-D



MERCHANTS NATIONAL BANK IN CHICAGO, ILLINOIS

SHEET NO. _____

E. C. JAMES
1145 W. VAN BUREN ST.
CHICAGO 12, ILL.

This will certify that this a true and correct copy of our original records maintained in the bank.

MERCHANTS NATIONAL BANK IN CHICAGO

O. E. Herrmann

E. E. Herrmann, Auditor

CHECKS AND OTHER DEBITS-BEAD ACROSS		DEPOSITS AND OTHER CREDITS	DATE	BALANCE
BALANCE BROUGHT FORWARD ⇨				
			NOV30 51	6,939.07
100.00-			DEC 3 51	6,839.07*
100.00-	100.00-			
100.00-			DEC 6 51	6,539.07*
100.00-	100.00-			
100.00-			DEC 7 51	6,239.07*
100.00-			DEC11 51	6,139.07*
100.00-			DEC12 51	6,039.07*
		1,901.97	JAN 2 52	7,941.04*
100.00-			JAN 7 52	7,841.04*
100.00-	100.00-			
100.00-			JAN10 52	7,541.04*
100.00-			JAN11 52	7,441.04*
100.00-			JAN14 52	7,341.04*
100.00-			JAN16 52	7,241.04*
145.06-	600.00-		JAN25 52	6,495.98*
100.00-			FEB 1 52	6,395.98*
4,494.01-	100.00-			
100.00-			FEB 6 52	1,701.97*
100.00-			FEB 7 52	1,601.97*
100.00-	100.00-			
100.00-			FEB 8 52	1,301.97*
		1,900.92	FEB14 52	3,202.89*
100.00-			FEB26 52	3,102.89*
100.00-		1,923.18	FEB29 52	4,926.07*
100.00-	100.00-			
100.00-			MAR 3 52	4,626.07*
100.00-			MAR 5 52	4,526.07*
			MAR 7 52	4,426.07*
100.00-			MAR10 52	4,326.07*
100.00-			MAR14 52	2,326.07*
2,000.00-			MAR19 52	2,226.07*
100.00-			MAR26 52	4,033.33*
		1,807.26	APR 1 52	3,933.33*
100.00-			APR 1 52	3,833.33*
100.00-			APR 2 52	3,633.33*
180.00-				
100.00-	100.00-			
100.00-	100.00-		APR 4 52	3,253.33*
			APR 8 52	3,153.33*
100.00-				

EXHIBIT 35–C

MERCHANTS NATIONAL BANK IN CHICAGO, ILLINOIS

SHEET NO.

E.C. JAMES
1640 WEST VAN BUREN ST.
CHICAGO ILL.

This will certify that this is a true and correct copy of our original records maintained in the bank.

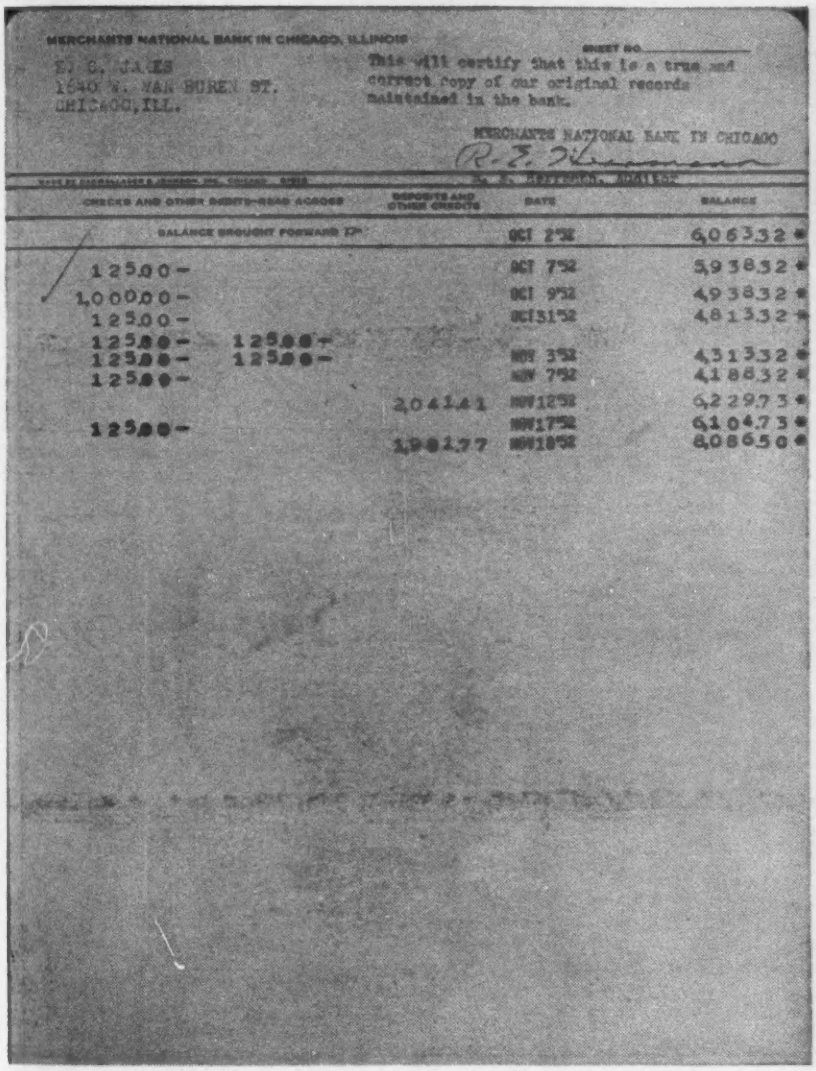
Merchants National Bank in Chicago

R. E. Herrmann

R. E. Herrmann, Auditor

CHECKS AND OTHER DEBITS—READ ACROSS		DEPOSITS AND OTHER CREDITS	DATE	BALANCE
BALANCE BROUGHT FORWARD 10-			OCT 1251	4,407.82 *
		1,756.81	OCT 15 51	4,224.63 *
100.00-			OCT 22 51	4,124.63 *
100.00-		1,928.22	NOV 14 51	6,052.85 *
			NOV 20 51	5,952.85 *
100.00-	100.00-	1,899.87		
100.00-			NOV 21 51	7,552.72 *
100.00-	513.65-		NOV 23 51	7,139.07 *
100.00-			NOV 26 51	7,039.07 *
100.00-			NOV 29 51	6,939.07 *

EXHIBIT 35–F



MERCHANTS NATIONAL BANK IN CHICAGO, ILLINOIS

SHEET NO.

E. C. JAMES
1540 N. VAN BUREN ST.
CHICAGO, ILL.

This will certify that this is a true and correct copy of our original records maintained in the bank.

MERCHANTS NATIONAL BANK IN CHICAGO

R. E. [illegible]

CHECKS AND OTHER DEBITS—READ ACROSS		DEPOSITS AND OTHER CREDITS	DATE	BALANCE
BALANCE BROUGHT FORWARD 10-			OCT 2'52	6,063.32 *
125.00-			OCT 7'52	5,938.32 *
1,000.00-			OCT 9'52	4,938.32 *
125.00-			OCT31'52	4,813.32 *
125.00-	125.00-			
125.00-	125.00-		NOV 3'52	4,313.32 *
125.00-			NOV 7'52	4,188.32 *
		2,041.41	NOV12'52	6,229.73 *
125.00-			NOV17'52	6,104.73 *
		1,998.77	NOV18'52	8,086.50 *

EXHIBIT 35-E

MERCHANTS NATIONAL BANK IN CHICAGO, ILLINOIS

E. C. JAMES
1540 S. VAN BUREN ST.
CHICAGO 12, ILL.

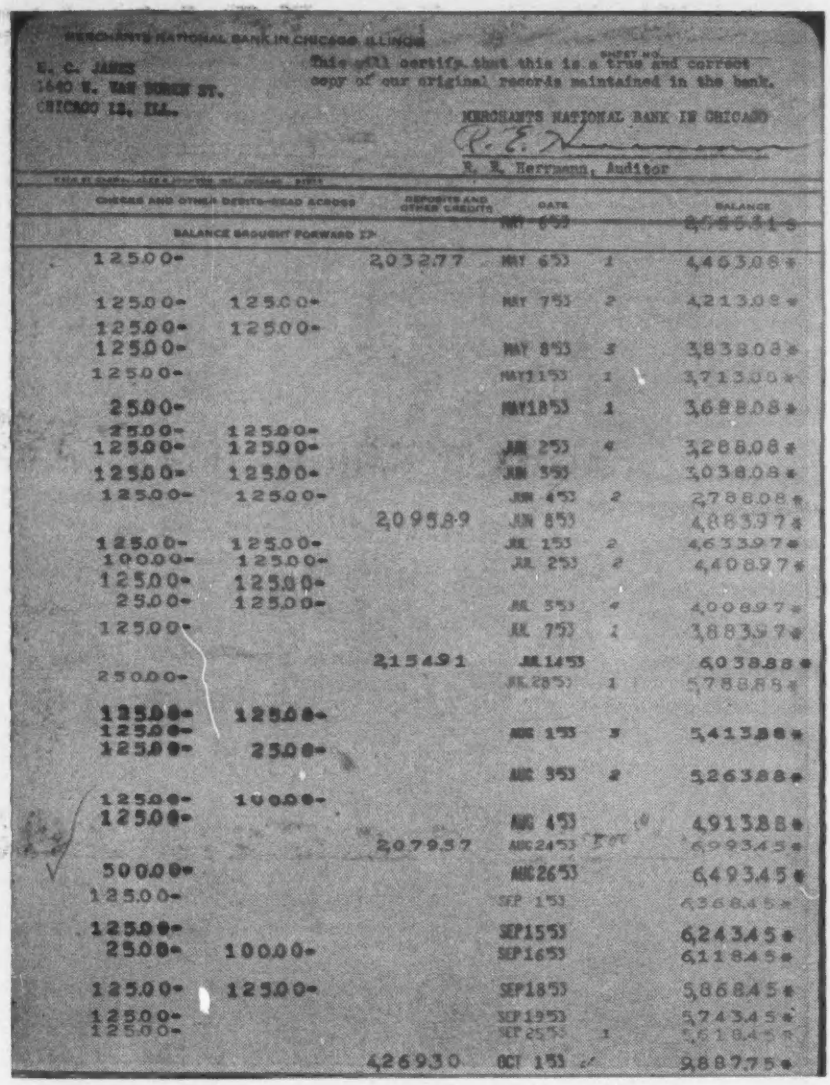
This will certify that this is a true and correct copy of our original records maintained in the Bank.

MERCHANTS NATIONAL BANK IN CHICAGO

R. E. [illegible], Auditor

CHECKS AND OTHER DEBITS—READ ACROSS		DEPOSITS AND OTHER CREDITS	DATE	BALANCE
BALANCE BROUGHT FORWARD >>			APR16'52	3,153.33
100.00 –			APR16'52	3,053.33
100.00 –			APR29'52	2,953.33
125.00 –	125.00 –			
125.00 –			MAY 1'52	2,828.33
125.00 –	125.00 –		MAY 3'52	2,828.33
125.00 –			MAY 5'52	2,703.33
		1,231.58	MAY 6'52	4,009.91
500.00 –			MAY 9'52	3,509.91
125.00 –			JUN 3'52	3,384.91
		1,928.85	JUN 4'52	5,313.76
125.00 –	125.00 –		JUN 5'52	5,063.76
125.00 –	125.00 –			
125.00 –			JUN 6'52	4,938.76
200.00 –			JUN10'52	4,738.76
2,913.00 –			JUN12'52	1,825.76
125.00 –			JUN17'52	1,450.76
		1,959.30	JUN23'52	3,410.06
125.00 –	125.00 –			
125.00 –	125.00 –		JUL 3'52	2,910.06
125.00 –			JUL 8'52	2,785.06
125.00 –			JUL14'52	2,660.06
		1,980.93	JUL17'52	4,640.99
125.00 –			JUL21'52	4,515.99
125.00 –			JUL30'52	4,390.99
125.00 –	125.00 –			
125.00 –			AUG 1'52	4,015.99
125.00 –			AUG 4'52	3,890.99
125.00 –			AUG 5'52	3,765.99
125.00 –			AUG 8'52	3,640.99
		2,023.14	AUG29'52	5,664.13
125.00 –	125.00 –			
125.00 –	125.00 –		SEP 2'52	5,164.13
125.00 –			SEP 3'52	5,039.13
125.00 –			SEP 5'52	4,914.13
125.00 –			SEP12'52	4,789.13
125.00 –	125.00 –		SEP25'52	4,539.13
125.00 –	125.00 –			
125.00 –	125.00 –		SEP26'52	4,039.13
		2,024.19	OCT 2'52	6,063.32

EXHIBIT 35–H



MERCHANTS NATIONAL BANK IN CHICAGO, ILLINOIS

E. C. JAMES
1640 E. 55TH [illegible] ST.
CHICAGO 15, ILL.

This will certify that this is a true and correct copy of our original records maintained in the bank.

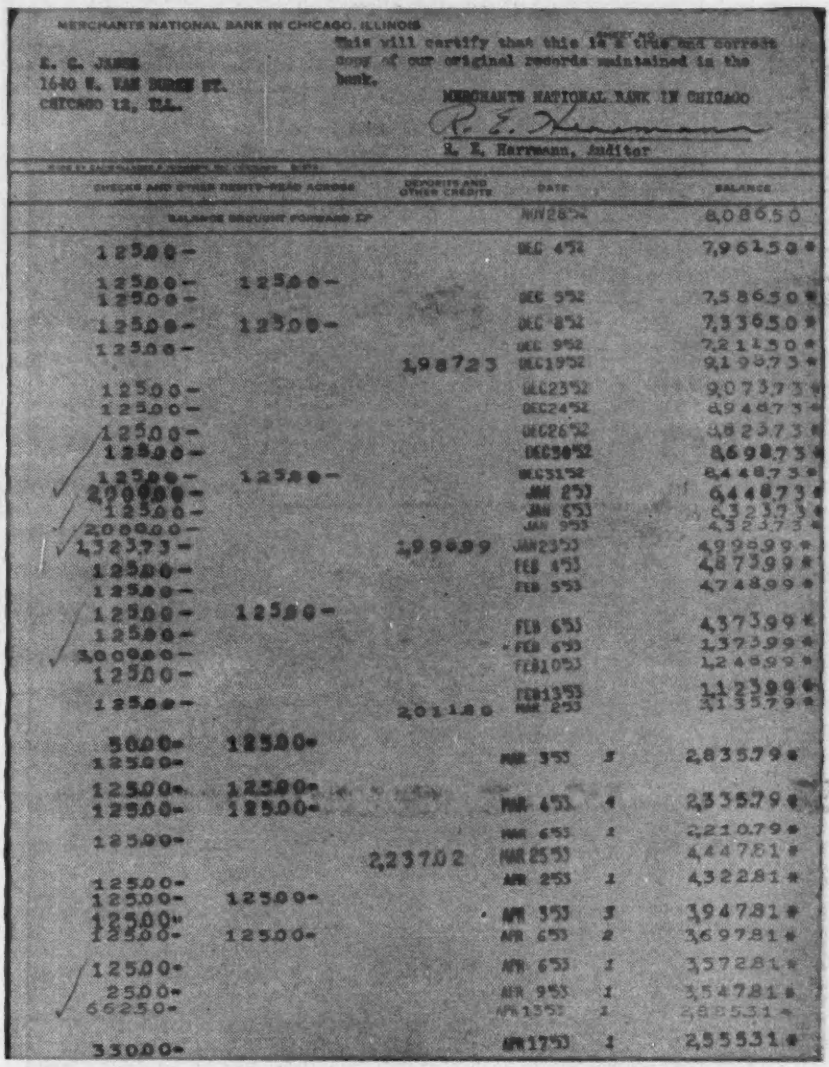
SAFETY NO.

MERCHANTS NATIONAL BANK IN CHICAGO

R. E. Herrmann, Auditor

CHECKS AND OTHER DEBITS—READ ACROSS		DEPOSITS AND OTHER CREDITS	DATE		BALANCE
BALANCE BROUGHT FORWARD [illegible]			MAY 6'53		[illegible]
125.00-		2032.77	MAY 6'53	1	4463.08
125.00-	125.00-		MAY 7'53	2	4213.08
125.00-	125.00-				
125.00-			MAY 8'53	3	3838.08
125.00-			MAY 11'53	1	3713.08
25.00-			MAY 18'53	1	3688.08
25.00-	125.00-				
125.00-	125.00-		JUN 2'53	4	3288.08
125.00-	125.00-		JUN 3'53		3038.08
125.00-	125.00-		JUN 4'53	2	2788.08
		2095.89	JUN 8'53		4883.97
125.00-	125.00-		JUN 15'53	2	4633.97
100.00-	125.00-		JUN 25'53	2	4408.97
125.00-	125.00-				
25.00-	125.00-		JUL 3'53	4	4008.97
125.00-			JUL 7'53	1	3883.97
		2154.91	JUL 14'53		6038.88
250.00-			JUL 28'53	1	5788.88
125.00-	125.00-				
125.00-			AUG 1'53	3	5413.88
125.00-	25.00-				
			AUG 3'53	2	5263.88
125.00-	100.00-				
125.00-			AUG 4'53		4913.88
		2079.57	AUG 24'53		6993.45
500.00-			AUG 26'53		6493.45
125.00-			SEP 1'53		6368.45
125.00-			SEP 15'53		6243.45
25.00-	100.00-		SEP 16'53		6118.45
125.00-	125.00-		SEP 18'53		5868.45
125.00-			SEP 19'53		5743.45
125.00-			SEP 25'53	1	5618.45
		426.30	OCT 1'53		9887.75

EXHIBIT 35–G



MERCHANTS NATIONAL BANK IN CHICAGO, ILLINOIS

E. C. JAMES
1640 E. 55TH [illegible] ST.
CHICAGO 12, ILL.

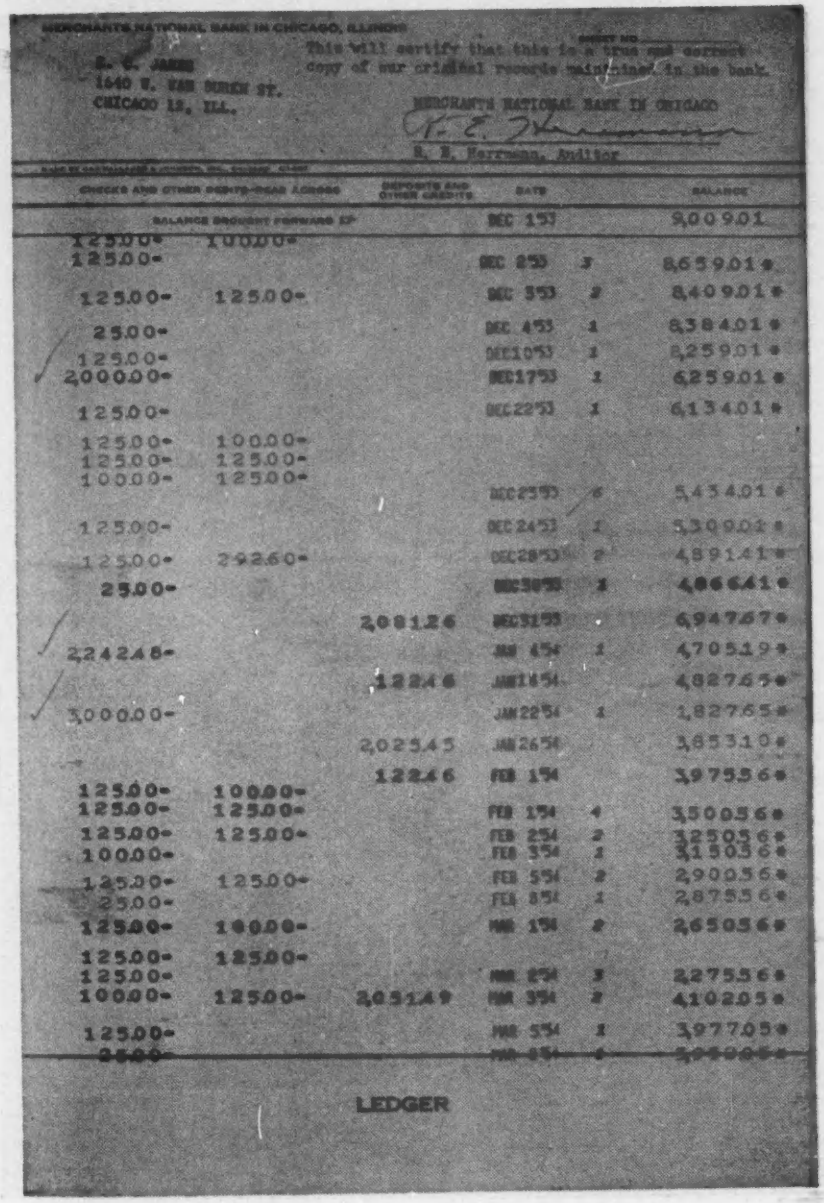
This will certify that this is a true and correct copy of our original records maintained in the bank.

MERCHANTS NATIONAL BANK IN CHICAGO

R. E. Herrmann, Auditor

CHECKS AND OTHER DEBITS—READ ACROSS		DEPOSITS AND OTHER CREDITS	DATE		BALANCE
BALANCE BROUGHT FORWARD 12/			NOV28'52		8,086.50
125.00–			DEC 4'52		7,961.50
125.00–	125.00–				
125.00–			DEC 5'52		7,586.50
125.00–	125.00–		DEC 8'52		7,336.50
125.00–			DEC 9'52		7,211.50
		1,987.23	DEC19'52		9,198.73
125.00–			DEC23'52		9,073.73
125.00–			DEC24'52		8,948.73
125.00–			DEC26'52		8,823.73
125.00–			DEC30'52		8,698.73
125.00–	125.00–		DEC31'52		8,448.73
2,000.00–			JAN 2'53		6,448.73
125.00–			JAN 6'53		6,323.73
2,000.00–			JAN 9'53		4,323.73
1,323.73–		1,998.99	JAN23'53		4,998.99
125.00–			FEB 4'53		4,873.99
125.00–			FEB 5'53		4,748.99
125.00–	125.00–		FEB 6'53		4,373.99
125.00–			FEB 6'53		4,373.99
3,000.00–			FEB10'53		1,248.99
125.00–					
125.00–			FEB13'53		1,123.99
		2,011.80	MAR 2'53		3,135.79
50.00–	125.00–				
125.00–			MAR 3'53	3	2,835.79
125.00–	125.00–				
125.00–	125.00–		MAR 4'53	4	2,335.79
125.00–			MAR 6'53	1	2,210.79
		2,237.02	MAR25'53		4,447.81
125.00–			APR 2'53	1	4,322.81
125.00–	125.00–				
125.00–			APR 3'53	3	3,947.81
125.00–	125.00–		APR 6'53	2	3,697.81
125.00–			APR 6'53	1	3,572.81
25.00–			APR 9'53	1	3,547.81
662.50–			APR13'53	1	2,885.31
330.00–			APR17'53	1	2,555.31

EXHIBIT 35-J



MERCHANTS NATIONAL BANK IN CHICAGO, ILLINOIS

SHEET NO. _____

E. C. JAMES
1640 W. VAN BUREN ST.
CHICAGO 12, ILL.

This will certify that this is a true and correct copy of our original records maintained in the bank.

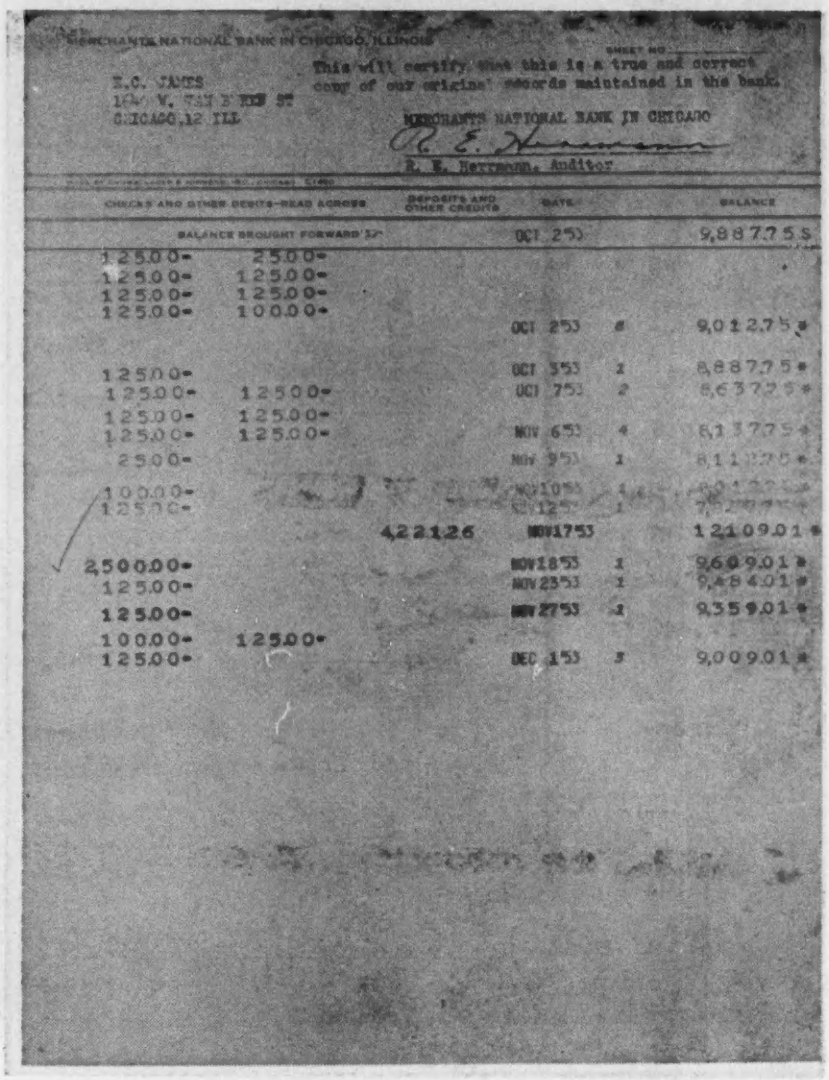
MERCHANTS NATIONAL BANK IN CHICAGO

E. E. Herrmann, Auditor

CHECKS AND OTHER DEBITS-ITEMS ALONGSIDE		DEPOSITS AND OTHER CREDITS	DATE		BALANCE
BALANCE BROUGHT FORWARD 12-			DEC 1 53		9,009.01
125.00-	100.00-				
125.00-			DEC 8 53	3	8,659.01+
125.00-	125.00-		DEC 9 53	2	8,409.01+
25.00-			DEC 4 53	1	8,384.01+
125.00-			DEC10 53	1	8,259.01+
2,000.00-			DEC17 53	1	6,259.01+
125.00-			DEC22 53	1	6,134.01+
125.00-	100.00-				
125.00-	125.00-				
100.00-	125.00-				
			DEC23 53	6	5,434.01+
125.00-			DEC24 53	1	5,309.01+
125.00-	292.60-		DEC28 53	2	4,891.41+
25.00-			DEC30 53	1	4,866.41+
		2,081.26	DEC31 53		6,947.67+
2,242.48-			JAN 4 54	1	4,705.19+
		122.46	JAN14 54		4,827.65+
3,000.00-			JAN22 54	1	1,827.65+
		2,025.45	JAN26 54		3,853.10+
		122.46	FEB 1 54		3,975.56+
125.00-	100.00-				
125.00-	125.00-		FEB 1 54	4	3,500.56+
125.00-	125.00-		FEB 2 54	2	3,250.56+
100.00-			FEB 3 54	1	3,150.56+
125.00-	125.00-		FEB 5 54	2	2,900.56+
25.00-			FEB 8 54	1	2,875.56+
125.00-	100.00-		MAR 1 54	2	2,650.56+
125.00-	125.00-				
125.00-			MAR 2 54	3	2,275.56+
100.00-	125.00-	2,051.49	MAR 3 54	2	4,102.05+
125.00-			MAR 5 54	1	3,977.05+
25.00-			MAR 8 54	1	3,952.05+

LEDGER

EXHIBIT 35–I



MERCHANTS NATIONAL BANK IN CHICAGO, ILLINOIS

SHEET NO.

E.C. JAMES
1[illegible] W. 73[illegible] ST
CHICAGO,12 ILL

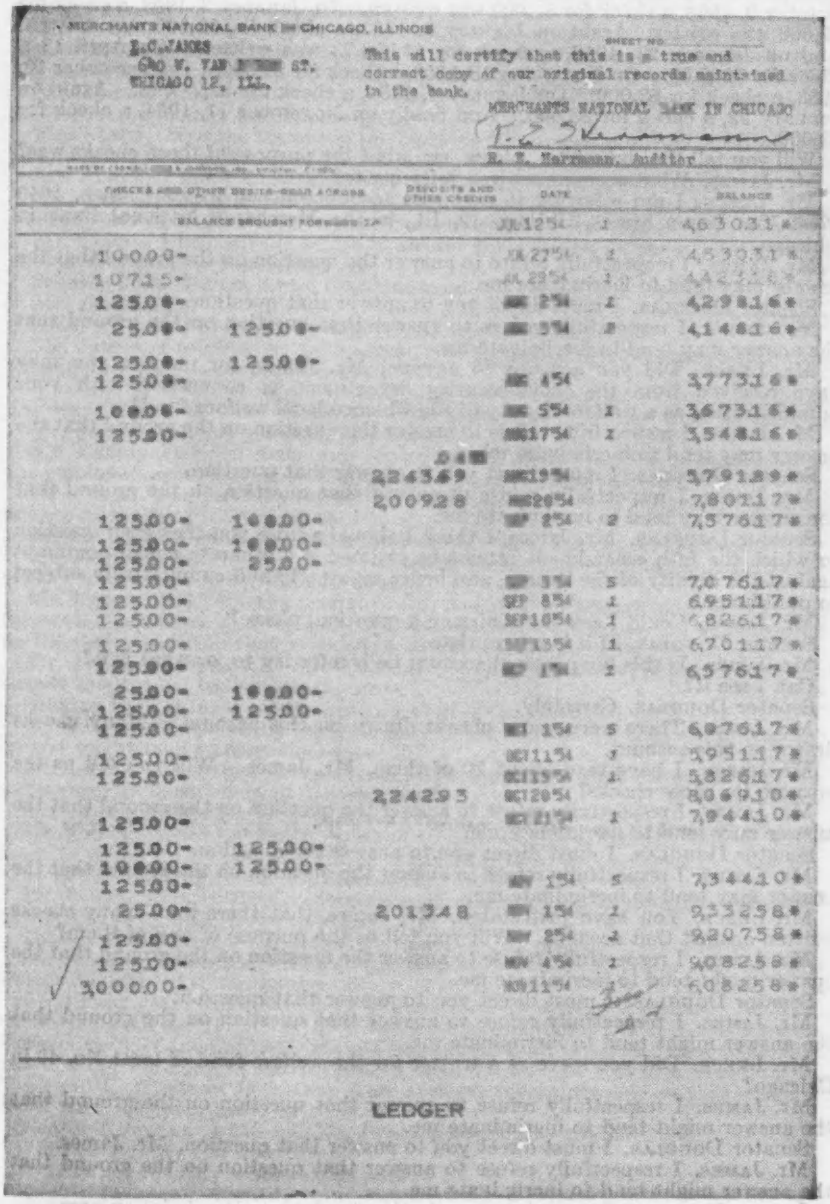
This will certify that this is a true and correct copy of our original records maintained in the bank.

MERCHANTS NATIONAL BANK IN CHICAGO

R. E. Herrmann, Auditor

CHECKS AND OTHER DEBITS-READ ACROSS		DEPOSITS AND OTHER CREDITS	DATE		BALANCE
BALANCE BROUGHT FORWARD 12-			OCT 25		9,887.75
125.00-	25.00-				
125.00-	125.00-				
125.00-	125.00-				
125.00-	100.00-				
			OCT 25		9,012.75
125.00-			OCT 3	1	8,887.75
125.00-	125.00-		OCT 7	2	8,637.75
125.00-	125.00-				
125.00-	125.00-		NOV 6	4	8,137.75
25.00-			NOV 9	1	8,112.75
100.00-			NOV 10	1	[illegible]
125.00-			NOV 12	1	[illegible]
		4,221.26	NOV 17		12,109.01
2,500.00-			NOV 18	1	9,609.01
125.00-			NOV 23	1	9,484.01
125.00-			NOV 27	1	9,359.01
100.00-	125.00-				
125.00-			DEC 1	3	9,009.01

EXHIBIT 35–L



MERCHANTS NATIONAL BANK IN CHICAGO, ILLINOIS

E.C. JAMES
6NO W. VAN BUREN ST.
CHICAGO 12, ILL.

SHEET NO.

This will certify that this is a true and correct copy of our original records maintained in the bank.

MERCHANTS NATIONAL BANK IN CHICAGO

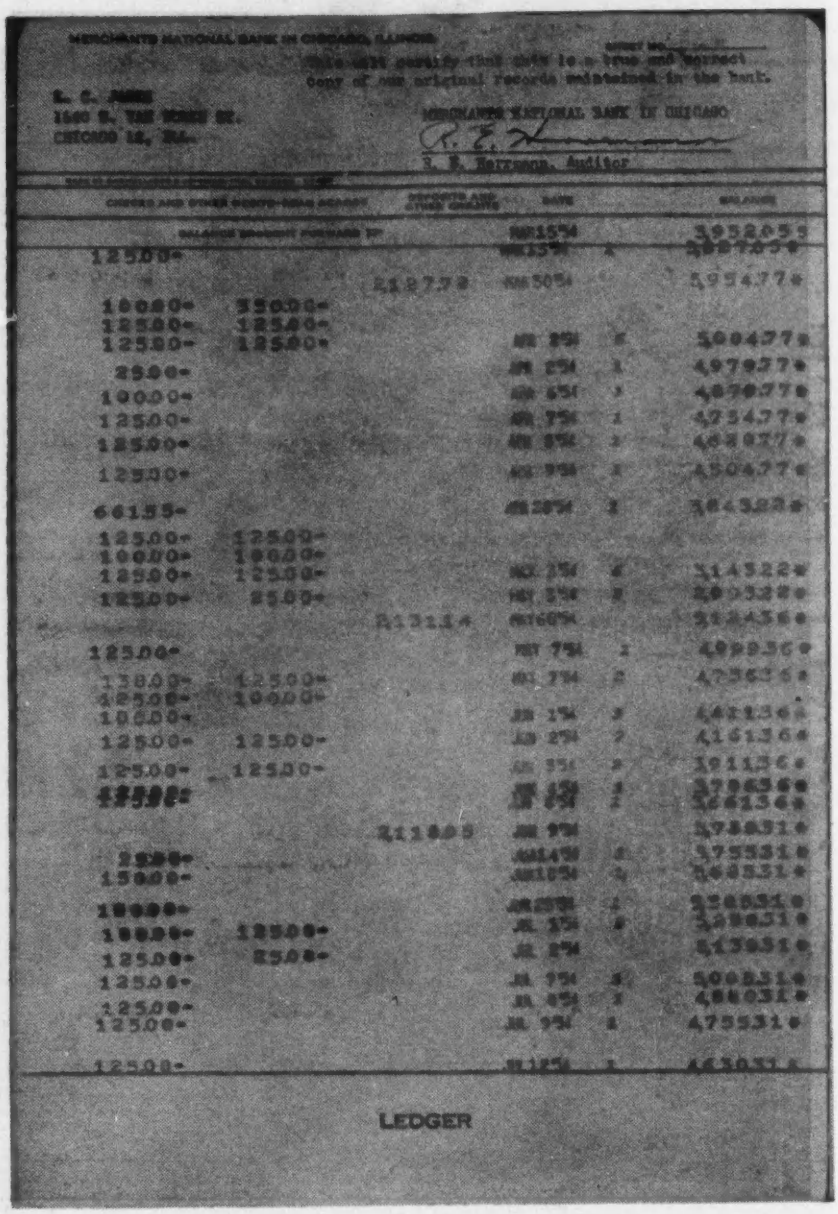
E. E. Herrmann

E. E. Herrmann, Auditor

CHECKS AND OTHER ITEMS—DEAR ACCOUNT	DEPOSITS AND OTHER CREDITS	DATE		BALANCE
BALANCE BROUGHT FORWARD 12-		JN1254	1	4,630.31*
100.00-		JA27'54	1	4,530.31*
107.15-		JA29'54	1	4,423.16*
125.00-		[illegible] 2'54	1	4,298.16*
25.00- 125.00-		[illegible] 3'54	2	4,148.16*
125.00- 125.00-				
125.00-		[illegible] 4'54		3,773.16*
100.00-		[illegible] 5'54	1	3,673.16*
125.00-		[illegible]17'54	1	3,548.16*
	243.69			
	243.69	[illegible]19'54		3,791.89*
	200.28	[illegible]20'54		3,991.17*
125.00- 100.00-		SEP 2'54	2	3,757.17*
125.00- 100.00-				
125.00- 25.00-				
125.00-		SEP 3'54	5	3,507.17*
125.00-		SEP 8'54	1	3,382.17*
125.00-		SEP10'54	1	3,257.17*
125.00-		SEP13'54	1	3,132.17*
125.00-		SEP 1'54	1	3,007.17*
25.00- 100.00-				
125.00- 125.00-				
125.00-		OCT 1'54	5	2,757.17*
125.00-		OCT11'54	1	2,632.17*
125.00-		OCT19'54	1	2,507.17*
	224.93	OCT20'54		2,732.10*
		OCT21'54	1	2,607.10*
125.00-				
125.00- 125.00-				
100.00- 125.00-				
125.00-		NOV 1'54	5	2,357.10*
25.00-	201.48	NOV 1'54	1	2,533.58*
125.00-		NOV 2'54	2	2,207.58*
125.00-		NOV 4'54	1	2,082.58*
1,000.00-		NOV11'54	1	1,082.58*

LEDGER

EXHIBIT 35-K



MERCHANTS NATIONAL BANK IN CHICAGO, ILLINOIS

This will certify that this is a true and correct Copy of our original records maintained in the bank.

E. C. JAMES
1540 E. 72ND ST.
CHICAGO 14, ILL.

MERCHANTS NATIONAL BANK IN CHICAGO

R. E. K.

R. E. Peterson, Auditor

CHECKS AND OTHER DEBITS (WITH AMOUNT)	DEPOSITS AND OTHER CREDITS	DATE		BALANCE
BALANCE BROUGHT FORWARD 12-		8/15/54		3952055
12500-				
	2127.72	8/30/54		5954.77+
10000- 35000-				
12500- 12500-				
12500- 12500-		8/31	E	5004.77+
2500-		9/1	I	4979.77+
10000-		9/3	I	4879.77+
12500-		9/7	I	4754.77+
12500-		9/8	I	4629.77+
12500-		9/9	I	4504.77+
66155-		9/20	I	3849.22+
12500- 12500-				
10000- 10000-				
12500- 12500-		9/21	E	3149.22+
12500- 2500-		9/22	I	3149.22+
	2131.14	9/30/54		3280.36+
12500-		10/1	I	4999.36+
13800- 12500-		10/1	I	4736.36+
25000- 10000-				
10000-		10/2	I	4411.36+
12500- 12500-		10/2	I	4161.36+
12500- 12500-		10/3	I	3911.36+
12500-		10/4	I	3786.36+
12500-		10/5	I	3661.36+
	2111.95	10/8/54		5773.31+
2500-		10/11	E	5773.31+
15000-		10/12	I	5273.31+
10000-		10/13	I	5148.31+
10000- 12500-		10/14	I	5023.31+
12500- 2500-		10/15	I	5023.31+
12500-		10/18	I	5023.31+
12500-		10/19	I	4898.31+
12500-		10/20	I	4773.31+
12500-		10/21	I	4648.31+

LEDGER

Senator IVES. I must insist that you answer that question, Mr. James.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer might tend to incriminate me.

Mr. LEECE. Was an audit ever made of this fund?

Mr. JAMES. I don't understand that question.

Mr. LEECE. Was an audit ever made of the welfare fund of local No. 46 which you and Mr. Byers served as trustees for?

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer might tend to incriminate me.

Senator IVES. I must direct you to answer that question, Mr. James.

Mr. JAMES. I respectfully refuse to answer that question on the gound that the answer might tend to incriminate me.

Mr. LEECE. Was the insurance premium on the coverage of that local reduced at any point during the life of the policy?

Mr. JAMES. I don't know what you are referring to in that question.

Mr. LEECE. Was the insurance premium as applied to the membership of the welfare fund of local No. 46 reduced at any point in the life of that program?

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator IVES. I must direct that you make that reply, Mr. James.

Mr. JAMES. Sir?

Senator IVES. I must direct that you answer the question.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Mr. LEECE. Did you report to the employers contributing to that program in any way, shape, or form during the time that you served the fund as trustee?

Mr. JAMES. I didn't get that, Mr. Leece.

Mr. LEECE. Did you make any report of any kind, financial or otherwise, to the employers contributing to that program or their representatives?

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer might tend to incriminate me.

Senator IVES. I must direct that you answer the question, Mr. James.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer might tend to incriminate me.

Mr. LEECE. Did you, as a trustee of this local No. 46 welfare fund, at any time receive a check from Security Mutual Life Insurance Co. in payment of a dividend on the policy covering that local, the insurance policy covering that local?

Mr. JAMES. I respectfully refuse to answer that question on the ground that the answer might tend to incriminate me.

Senator IVES. I must direct that you answer that question.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer might tend to incriminate me.

Mr. LEECE. Were the funds accruing from that check ever turned over to the social-security department at Indianapolis?

Mr. JAMES. I didn't hear that, Mr. Leece.

Mr. LEECE. Were the funds accruing from that check, namely, the dividend check to which I have just referred, ever turned over to the social-security department of the Laundry Workers International Union?

Mr. JAMES. I respectfully refuse to answer that question on the ground that the answer might tend to incriminate me.

Senator IVES. I must direct that you answer that question, Mr. James.

Mr. JAMES. I respectfully refuse to answer that question on the ground that the answer might tend to incriminate me.

Mr. LEECE. Mr. Chairman, I have a photostatic copy of a signature card in connection with the Hotel Laundry Workers International Union, Local No. 46, Welfare Fund, of the Central National Bank of Chicago certified by the bank as a true and correct copy of the original in their files which indicates that Sam J. Byers and E. C. James as trustees were authorized to write against that account that I have just identified.

Senator DOUGLAS. I will ask Mr. James if he will identify it.

Will you identify the signature?

Mr. JAMES. Identify whose signature?

Senator DOUGLAS. Identify your signature on the reverse. It is on the reverse side.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer might tend to incriminate me.

Mr. LEECE. Mr. James, on May 11 a check was written for $345 on that account. On June 8, two checks each in the amount of $2,000 were written against that account. On January 25, 1952, a check for $600 was written against the account. On February 6, a check for $4,494.01 was written against the account. On March 14, a check for $2,000 was written against the account. On May 9, 1952, a check for $500 was written. On June 12, a check for $2,913 was written. On October 9, 1952, a check for $1,000 was written. On January 2, 1953, a check for $2,000 was written. Again on January 9, 1953, a check for $2,000 was written. And on January 23, 1953, a check for $1,323.73 was written. On April 13 a check for $662.50. On November 18, 1953, a check for $2,500. On December 10, 1953, a check for $2,000. On January 4, 1954, a check for $2,242.48. Again on January 22, a check for $3,000. And finally on November 11, 1954, a check for $3,000.

Will you tell the committee, please, sir, what the purpose of those checks was?

Mr. JAMES. What account are you referring to?

Mr. LEECE. I am referring to a special account opened in your name, 1640 West Van Buren Street, Chicago 12, Ill., in the Merchants National Bank in Chicago.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. I must direct you to answer that question.

Mr. JAMES. I respectfully refuse to answer that question on the ground that the answer may tend to incriminate me.

Mr. LEECE. Did you account to anyone, Mr. James, for moneys you may have received from the social-security department in connection with your administration as a welfare deputy of the Chicago local welfare fund?

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. I must direct you to answer that question.

Mr. JAMES. I respectfully refuse to answer that question on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. Mr. James, I think I should advise you that each question to which the fifth amendment cannot be claimed is a separate act of contempt against the dignity of the Senate, and hence separately and cumulatively subject to punishment.

Mr. JAMES. Could I ask the chairman a question, please?

Senator DOUGLAS. If it is appropriate.

Mr. JAMES. Is this my personal account he is referring to, or what is it?

Can I see it?

Senator DOUGLAS. Certainly.

Mr. JAMES. There were many checks drawn on this account. Many checks drawn on this account.

Mr. LEECE. I have read about 20 of them, Mr. James. Will you tell us the purpose for those checks?

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. I must direct you to answer the question.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Mr. LEECE. You have just stated, Mr. James, that there were many checks written against that account. Will you tell us the purpose of any of them?

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer might tend to incriminate me.

Senator DOUGLAS. I must direct you to answer that question.

Mr. JAMES. I respectfully refuse to answer that question on the ground that the answer might tend to incriminate me.

Mr. LEECE. Did you serve as a trustee for the welfare fund of local No. 46 in Chicago?

Mr. JAMES. I respectfully refuse to answer that question on the ground that the answer might tend to incriminate me.

Senator DOUGLAS. I must direct you to answer that question, Mr. James.

Mr. JAMES. I respectfully refuse to answer that question on the ground that the answer might tend to incriminate me.

Senator DOUGLAS. I am going to make Senator Ives acting chairman now.

Mr. LEECE. Is Mr. Byers associated with you as a trustee for that local No. 46 fund?

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer might tend to incriminate me.

Senator DOUGLAS. I must direct you to answer that question.

Mr. JAMES. I respectfully refuse to answer that question on the ground that the answer might tend to incriminate me.

Senator DOUGLAS. It will now be made a part of the record.

(The documents referred to were marked "Exhibits 36–A and B.")

EXHIBIT 36–A

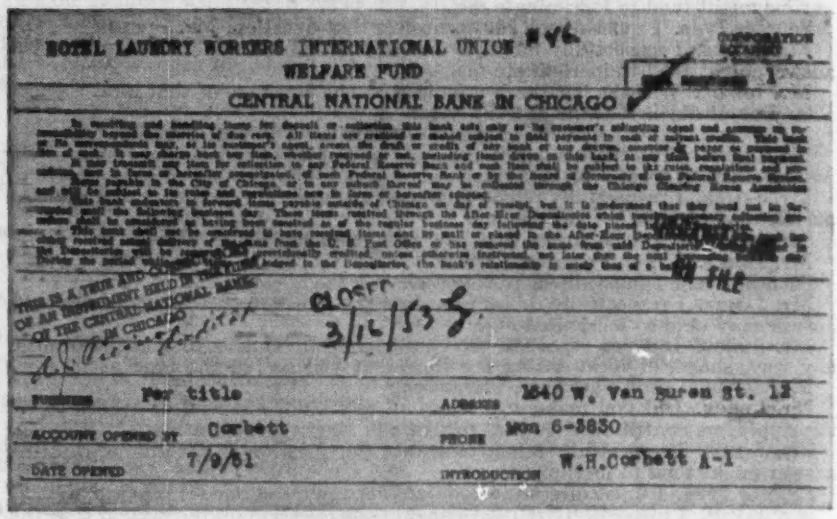
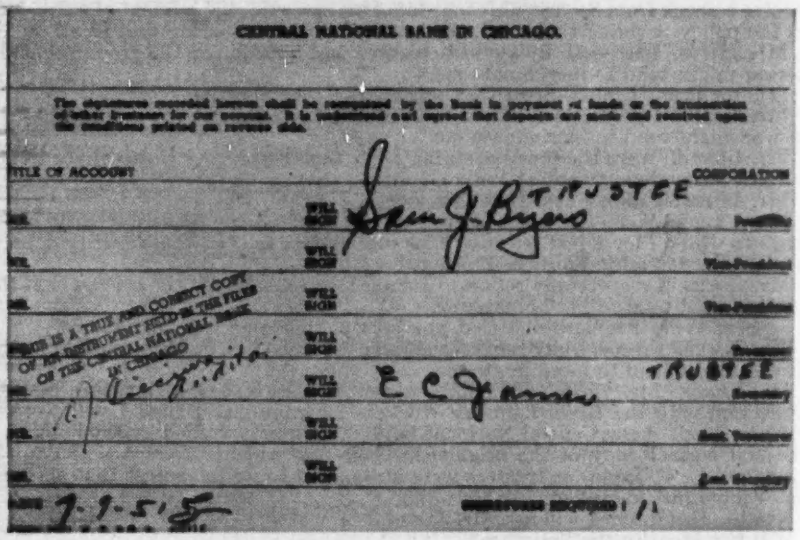

HOTEL LAUNDRY WORKERS INTERNATIONAL UNION #46
WELFARE FUND
CENTRAL NATIONAL BANK IN CHICAGO
THIS IS A TRUE AND CORRECT COPY OF AN INSTRUMENT HELD IN THE FILES OF THE CENTRAL NATIONAL BANK IN CHICAGO
CLOSED 3/12/53
RE FILE
PURPOSE For title
ADDRESS 1840 W. Van Buren St. 12
ACCOUNT OPENED BY Corbett
PHONE Mon 6-3830
DATE OPENED 7/9/51
INTRODUCTION W.H.Corbett A-1

EXHIBIT 36–B


CENTRAL NATIONAL BANK IN CHICAGO.
TITLE OF ACCOUNT
CORPORATION
Sam J. Byers TRUSTEE
E C James TRUSTEE
THIS IS A TRUE AND CORRECT COPY OF AN INSTRUMENT HELD IN THE FILES OF THE CENTRAL NATIONAL BANK IN CHICAGO
7-9-51

Mr. LEECE. Mr. Chairman, I also have a photostatic copy of the statement of that account maintained by the Central National Bank and certified as a true and correct copy of the original maintained by that bank.

The records indicate that this account was closed out on March 13, 1953, with the withdrawal of $17,089.10.

Mr. James, only you and Mr. Byers were authorized to draw against that account. Did you, in fact, draw a check for $17,089.10 on March 13, 1953?

Mr. JAMES. I respectfully refuse to answer that question on the ground that the answer might tend to incriminate me.

Senator DOUGLAS. I must direct you to answer that question.

Mr. JAMES. I respectfully refuse to answer that question on the ground that the answer might tend to incriminate me.

Senator IVES. Who did draw the check at that time?

Mr. JAMES. I beg your pardon, sir.

Senator IVES. Who did draw the check?

Mr. JAMES. I respectfully refuse to answer that question on the ground that the answer might tend to incriminate me.

Senator DOUGLAS. I must direct you to answer that question.

Mr. JAMES. I respectfully refuse to answer that question on the ground that the answer might tend to incriminate me.

Senator DOUGLAS. Was the check made out to your account? Did you make the check out to yourself?

Mr. JAMES. I didn't hear you.

Senator DOUGLAS. Did you make the check out to yourself?

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer might tend to incriminate me.

Senator DOUGLAS. I must direct you to answer the question.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer might tend to incriminate me.

Mr. LEECE. Isn't it true that only you and Mr. Byers were authorized to write against that account?

Mr. JAMES. I respectfully refuse to answer that question on the ground that the answer might tend to incriminate me.

Senator DOUGLAS. I must direct you to answer the question.

Mr. JAMES. I respectfully refuse to answer that question on the ground that the answer might tend to incriminate me.

Mr. LEECE. Did you at that time or at any time thereafter turn over that money to the social security department of the Laundry Workers International Union?

Mr. JAMES. I respectfully refuse to answer that question on the ground that the answer might tend to incriminate me.

Mr. LEECE. With your permission, I would like to move the admission of this.

Senator DOUGLAS. It will be made a part of the record at this point.

(The documents referred to were marked exhibits 37–A to 37–D.)

EXHIBIT 37–A

Hotel Laundry Workers
International Union Local #46
WELFARE FUND
1640 West Van Buren Street
Chicago 12, Illinois

BROUGHT UP BALANCE	CHECKS		DEPOSITS	DATE	BALANCE
	BALANCE FORWARDED				
			1,893.94	9	1,893.94
1,893.94	1,160.00-	4.00-			
	729.44-	1.50-			1,509.40
1,509.40					
					12,035.66
12,035.66			224.80	JA 1851	12,260.46
12,260.46			1,202.32	JA 1951	13,462.78
13,462.78			337.20	JA 2051	13,799.98
13,799.98			635.06	JA 2351	14,435.04
14,435.04			1,944.52	JA 2551	16,379.56
16,379.56				JA 30	15,884.40
15,884.40	1,857.-				14,026.40
14,026.40			106.78	MR 451	14,133.18
14,133.18	2,500.-			MR 751	11,633.18
11,633.18			309.10	MR 851	11,942.28
11,942.28	2,500.-			MR 851	9,442.28
9,442.28			545.16	MR 951	9,987.44
9,987.44			680.14	MR 1151	10,667.58
10,667.58			1,125.73	MR 1451	11,793.31
11,793.31			27.38	MR 1651	11,820.69
11,820.69			1,548.39	SEP 551	13,369.08
13,369.08			1,292.19	SEP 751	14,661.27
14,661.27	7,332.44-	28.57-		SEP 551	7,300.26
7,300.26			1,067.81	SEP 751	8,368.07
8,368.07			1,377.85	SEP 1051	9,745.92
9,745.92	2,500.-			SEP 1451	7,245.92
7,245.92			1,534.00	SEP 1851	8,779.92
8,779.92	2,500.-			SEP 1951	6,279.92
6,279.92	2,500.-			SEP 2551	3,779.92
3,779.92			1,189.06	OCT 851	4,968.98
4,968.98	2,500.-		1,393.76	OCT 951	3,862.74
3,862.74	2,500.-			OCT 951	1,362.74
1,362.74			708.12	OCT 1151	2,070.86
2,070.86	514.44-		545.14	OCT 1651	2,101.56
2,101.56	2,519.54-			OCT 1751	418.02
418.02	4.86-			OCT 2251	413.16

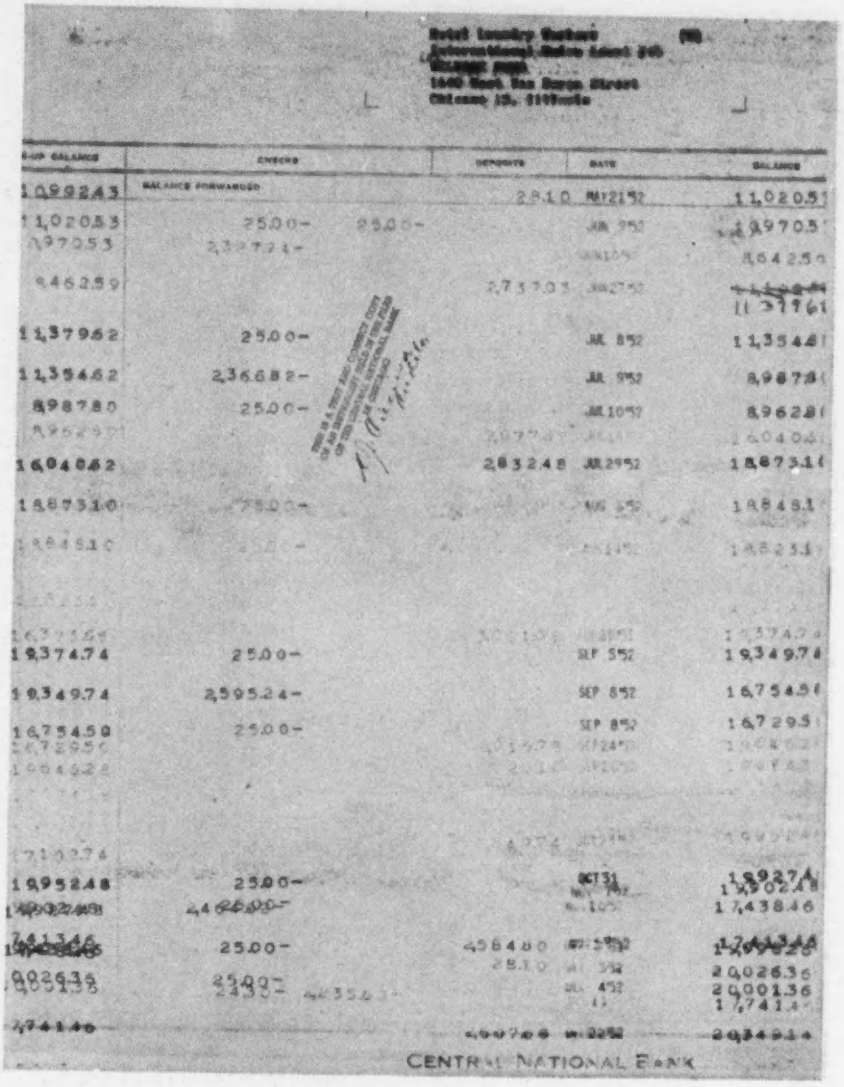
THIS IS A TRUE AND CORRECT COPY OF AN INSTRUMENT FILED IN THE FILES OF THE CENTRAL NATIONAL BANK IN CHICAGO

EXHIBIT 37–B

Hotel Laundry Workers (8)
International Union Local #46
WELFARE FUND
1640 West Van Buren Street
Chicago 12, Illinois

CHECK-UP BALANCE	CHECKS		DEPOSITS	DATE	BALANCE
	BALANCE FORWARDED				
11,197.24					
11,225.34	25.00-		28.10	(illegible)52	11,225.34
				NOV 5 52	11,200.34
11,200.34	2,503.76-				
8,696.58	25.00-			NOV 7 52	8,696.58
				NOV 13 52	8,671.58
8,671.58					
11,402.90	25.00-		2,731.32	NOV 19 52	11,402.90
				DEC 7 52	11,377.90
11,377.90	2,556.36-	25.00-		DEC 10 52	8,796.54
8,796.54	33.72-			DEC 12 52	8,762.82
8,762.82	83.00-	83.00-			
	83.00-	83.00-			
	83.00-	83.00-			
	83.00-	83.00-			
	83.00-			DEC 14 52	8,015.82
8,015.82	83.00-			DEC 19 52	7,932.82
7,932.82			2,725.70	DEC 21 52	10,658.52
10,658.52	83.00-			DEC 21 52	10,575.52
10,575.52	83.00-			DEC 27 52	10,492.52
10,492.52			28.10	JAN 4 53	10,520.62
10,520.62	2,615.55-			JAN 10 53	7,905.07
7,905.07	25.00-			JAN 17 53	7,880.07
7,880.07			2,579.58	JAN 19 53	10,459.65
10,459.65			106.78	JAN 25 53	10,566.43
10,566.43	25.00-			JAN 28 53	10,541.43
10,541.43			28.10	JAN 31 53	10,569.53
				FEB 1 53	8,024.13
10,569.53	2,545.41-			FEB 1 53	7,999.13
8,024.13	25.00-			FEB 10 53	10,584.33
7,999.13			2,585.20	FEB 16 53	10,559.11
10,584.33			106.78	FEB 23 53	10,665.11
10,559.11	25.00-			FEB 25 53	10,640.11
10,665.11			2,658.34	MAR 4 53	13,324.44
10,640.11				MAR 17 53	10,800.11
13,324.44	2,524.33-		28.10	MAR 31 53	10,828.21
10,828.21				APR 3 53	10,803.21
10,803.21	25.00-				
8,209.15	25.00-	25.00-		APR 10 53	8,209.15
11,728.21	25.00-	2,519.06-	2,772.00	APR 15 53	11,728.21
8,328.55	25.00-	2,550.66-		MAY 12 53	8,328.55
10,992.43	25.00-		2,663.88	MAY 16 53	10,992.43

EXHIBIT 37–C



Retail Laundry Workers
International Union Local 245
Chicago, Illinois
1640 West Van Buren Street
Chicago 15, Illinois

BROUGHT FORWARD BALANCE	CHECKS	DEPOSITS	DATE	BALANCE
1099243	BALANCE FORWARDED	28.10	MAY 52	11,020.53
11,020.53	25.00-	25.00-	JUN 52	10,970.53
10,970.53	2,327.74-		JUN 52	8,642.79
8,462.59		2,737.03	JUN 52	11,199.62
11,379.62	25.00-		JUL 52	11,354.62
11,354.62	2,366.82-		JUL 52	8,987.80
8,987.80	25.00-		JUL 52	8,962.80
8,962.80		2,077.08	JUL 52	11,039.88
16,046.62		2,832.48	JUL 52	18,879.10
18,879.10	25.00-		AUG 52	18,854.10
18,854.10	25.00-		AUG 52	18,829.10
16,754.50	25.00-		SEP 52	16,729.50
16,729.50		2,619.78	SEP 52	19,349.28
19,349.28		25.00	SEP 52	19,374.28
19,374.74	25.00-		SEP 52	19,349.74
19,349.74	2,595.24-		SEP 52	16,754.50
16,754.50	25.00-		SEP 52	16,729.50
16,729.50		2,713.74	SEP 52	19,443.24
19,952.48	25.00-		OCT 52	19,927.48
19,927.48	2,488.82-		OCT 52	17,438.66
17,438.66	25.00-	456.80	OCT 52	17,870.46
17,870.46	25.00-	28.10	NOV 52	17,873.56
20,026.36	25.00-	2,435.00	NOV 52	20,001.36
17,741.46		2,493.00	DEC 52	20,234.46

CENTRAL NATIONAL BANK

EXHIBIT 37-D

Hotel Laundry Workers
International Union Local #6
WELFARE FUND
1640 West Van Buren Street
Chicago 12, Illinois

BROUGHT FORWARD BALANCE	CHECKS		DEPOSITS	DATE	BALANCE
	BALANCE FORWARDED				
20,349.14	83.00-	25.00-		1-24-52	20,241.14
20,241.14	83.00-	83.00-		1-28-52	20,075.14
20,075.14	83.00-	25.00-			
	83.00-	83.00-			
	83.00-			2-5-52	19,718.14
19,718.14	83.00-			2-12-52	19,635.14
19,635.14	83.00-			2-19-52	19,552.14
19,552.14	25.00-	2,255.04-		JAN 5'53	17,272.10
17,272.10	83.00-			JAN 7'53	17,189.10
17,189.10	100.00-			FEB 16'53	17,089.10
17,089.10	17,089.10-			FEB 16'53	0

THIS IS A TRUE AND CORRECT COPY OF AN INSTRUMENT FILED IN THE FILES OF THE CENTRAL SAVINGS BANK IN CHICAGO

Senator DOUGLAS. I must direct you to answer that question.
Mr. JAMES. Mr. Chairman, can I see this report, please?
Senator DOUGLAS. Yes.
Mr. LEECE. I have no further questions, Mr. Chairman.
Senator DOUGLAS. Senator Ives?
Senator IVES. I have no questions.
Senator DOUGLAS. Senator Allott?
Senator ALLOTT. Mr. James, you stated that your name was Eugene C. James after you had been sworn to tell the truth and nothing but the truth. Are you also known as Jimmy James?
Mr. JAMES. Is that in the form of a question?
Senator ALLOTT. Yes.
Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer might tend to incriminate me.
Senator IVES. I direct you to answer that question, Mr. James.
Mr. JAMES. I respectfully refuse to answer that question on the ground that the answer might tend to incriminate me.
Senator ALLOTT. Is Eugene C. James your true legal name?
Mr. JAMES. I respectfully refuse to answer that question on the ground that the answer might tend to incriminate me.
Senator DOUGLAS. I must direct you to answer the question.
Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.
Senator ALLOTT. Are you presently known under any alias?
Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer might tend to incriminate me.
Senator DOUGLAS. I must direct you to answer that question.
Mr. JAMES. (No response.)
Senator IVES. You have been directed to answer.
Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer might tend to incriminate me.
Mr. Chairman, I am a little hard of hearing.
Senator IVES. So am I. You talk so low that I can't hear you either.
Mr. JAMES. I haven't got a pinchhitter for me, though.
Senator IVES. You have more volume than you are showing.
Senator ALLOTT. Under oath you gave your address as 1640 West Van Buren Street, Chicago, Ill.
Is that your business address?
Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer might tend to incriminate me.
Senator DOUGLAS. I must direct you to anwer the question.
Mr. JAMES. I respectfully refuse to anwer the question on the ground that the answer might tend to incriminate me.
Senator ALLOTT. If that is your business address, where is your home address?
Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer might tend to incriminate me.
Senator DOUGLAS. I must direct you to answer that question.
Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer might tend to incriminate me.
Senator ALLOTT. Is your home address 823 South Main Street, Wheaton, Ill.?
Mr. JAMES. I respectfully refuse to anwer the question on the ground that the answer might tend to incriminate me.
Senator DOUGLAS. I must direct that you answer that question.
Mr. JAMES. I respectfully refuse to answer that question on the ground that the answer might tend to incriminate me.
Senator ALLOTT. How old are you, Mr. James?
Mr. JAMES. I respectfully refuse to answer that question on the ground that the answer might tend to incriminate me.
Senator IVES. Do you know your age?
Mr. JAMES. Is that in the form of a question?
Senator IVES. That is a question, yes.
Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer might tend to incriminate me.
Senator IVES. I direct you to answer it.
Mr. JAMES. I respectfully refuse to answer that question on the ground that the answer might tend to incriminate me.

Senator ALLOTT. What is your legal occupation, if you have any?

Mr. JAMES. Repeat the question, please.

Senator ALLOTT. What is your legal occupation, if you have any?

Mr. JAMES. If I have any?

Senator ALLOTT. Yes, if you have one?

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer might tend to incriminate me.

Senator IVES. I direct that you make that answer to that question.

Mr. JAMES. I respectfully refuse to answer that question on the ground that the answer might tend to incriminate me.

Senator IVES. Do you have a legal occupation?

Mr. JAMES. Is that another question?

Senator IVES. Yes.

Mr. JAMES. I didn't know whether that question was hooked in with his question or not.

Senator IVES. I asked if you have a legal occupation.

Mr. JAMES. Which question are you asking me now?

Senator IVES. I am asking if you have a legal occupation.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer might tend to incriminate me.

Senator DOUGLAS. I must direct you to answer the question.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer might tend to incriminate me.

Senator DOUGLAS. I would suggest to my fellow members that the questions be addressed to points connected with this case or aspects which they think are important to this case.

I think perhaps it would be well not to engage in a fishing expedition.

Senator IVES. These are pertinent questions.

Senator ALLOTT. Mr. Chairman, on that point may I suggest to you that we do not even have any assurance as to the identity of this person.

Senator DOUGLAS. Yes, I know. The witness has been very contemptuous toward the committee.

Senator ALLOTT. Are you an American citizen?

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer might tend to incriminate me.

Senator DOUGLAS. I must direct you to answer that question.

Mr. JAMES. I respectfully refuse to answer the question on the ground that it might tend to incriminate me.

Senator ALLOTT. Where were you born?

Mr. JAMES. I respectively refuse to answer the question on the ground that the answer might tend to incriminate me.

Senator DOUGLAS. I must direct you to answer that question.

Mr. JAMES. I respectfully refuse to answer the question on the ground that it might tend to incriminate me.

Senator ALLOTT. Now, are you the same person who on two occasions since these hearings started buttonholed me over to your left and my right of the desk here and asked me to put questions to various witnesses?

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer might tend to incriminate me.

Senator DOUGLAS. Will you make a statement for the record on that?

Senator ALLOTT. Yes. I will make a statement for the record.

I think the record indicates that, because each time I did it I said that Mr. James had asked me to put the questions. And this man who is presently on the witness stand is the same person who on two occasions asked me to put questions to witnesses in his behalf.

Senator DOUGLAS. The Chair will say that he allowed those questions to be put.

Senator ALLOTT. And answered also.

Senator DOUGLAS. And answered, yes.

And I think that indicates that the committee has given the witness every possible protection, every possible aid, to which he is legally entitled, and more. We have made every effort to be fair and have leaned over backward in a desire to give him a fair hearing.

And in return for this fair treatment, he is refusing to answer even simple questions.

Senator ALLOTT. Are you still an officer of the Chicago Local No. 46 of the Laundry Workers International Union?

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer might tend to incriminate me.

Senator ALLOTT. Mr. James, I hand you herewith check No. 352465 of the Security Mutual Life Insurance Co. dated May 6, 1952, and signed by Mr. Russell, president and made payable to E. C. James, acting secretary-treasurer of the Laundry Workers International Union for $2,500 and with the endorsement on the back of it as follows: "Pay Central National Bank 10152 in Chicago or order 10152 for deposit only, Illinois Harness Horsemen's Association" [1] and I ask you if you caused that endorsement to be placed on that check, which bears no written signature.

Mr. JAMES. Could I ask the chairman a question.

Senator DOUGLAS. Yes.

Mr. JAMES. This check is made out to E. C. James, secretary-treasurer. What is the legal status of that check. Who is the check made to? Who is the check payable to? I would like to ask that question. It says E. C. James.

Senator ALLOTT. The check speaks for itself. Are you E. C. James?

Mr. JAMES. The check is made to E. C. James.

Senator ALLOTT. Are you E. C. James?

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer might tend to incriminate me.

Senator DOUGLAS. I direct you to answer that question.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer might tend to incriminate me.

Senator ALLOTT. Now, will you answer my question concerning the endorsement, Mr. James.

Mr. JAMES. What was your question?

Senator ALLOTT. My question was whether you put the stamp on there or the endorsement of the Illinois Harness Horsemen's Association or cause it to be put on there?

Mr. JAMES. I respectfully refuse to answer that question on the ground that the answer might tend to incriminate me.

Senator DOUGLAS. The Chair will rule that since it is quite possible that such an answer would incriminate the witness, that he is not compelled to answer that question and can legitimately claim his constitutional rights.

Senator ALLOTT. I will ask you if you ever had membership in or were an officer of the Illinois Harness Horsemen's Association?

Mr. JAMES. I respectfully refuse to answer that question on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. Now, I must direct you to answer that question.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator ALLOTT. I will ask you where the office of the Illinois Harness Horsemen's Association was?

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. I must direct you to answer that question.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator ALLOTT. Do you know a man by the name of Scalise?

Mr. JAMES. Who is that? I didn't hear you.

Senator ALLOTT. Do you know a man by the name of Scalise?

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. I must direct you to answer that question.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator ALLOTT. George Scalise. Do you know a man by that name?

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. I must direct you to answer that question.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator ALLOTT. Do you know a man by the name of Anthony Carfano, who is otherwise known as "Little Augie" Pisano?

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. I must direct you to answer that question.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

[1] See exhibits 7-A and B.

Senator ALLOTT. Are you still an officer of the International Laundry Workers Association?

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer might tend to incriminate me.

Senator DOUGLAS. I must direct you to answer both of those questions.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer might tend to incriminate me.

Senator ALLOTT. Has any action been instituted in court or within the union to depose you as an officer of either one of those unions?

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer might tend to incriminate me.

Senator DOUGLAS. I must direct you to answer the question.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer might tend to incriminate me.

Senator ALLOTT. Did you bring any records with you to this hearing?

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer might tend to incriminate me.

Senator DOUGLAS. I must direct you to answer that question.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer might tend to incriminate me.

Senator ALLOTT. Did you bring a copy of the subpena that was served upon you to this hearing?

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer might tend to incriminate me.

Senator DOUGLAS. I must direct you to answer that question.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer might tend to incriminate me.

Senator ALLOTT. Is it not true, Mr. James, that at the executive session you did produce out of your pocket a copy of the subpena that was served upon you?

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer might tend to incriminate me.

Senator DOUGLAS. The Chair will state for the record that the answer to that question is "Yes" that Mr. James, without testifying or giving any verbal testimony, did bring out of his pocket a copy of the subpena.

Senator ALLOTT. Have you during the last 5 years owned or operated or participated in the operation of a stable of horses?

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer might tend to incriminate me.

Senator DOUGLAS. I must direct you to answer that question.

Mr. JAMES. I respectfully refuse to answer that question on the ground that the answer might tend to incriminate me.

Senator ALLOTT. Were you an officer of the Illinois Harness Horsemen's Association?

Mr. JAMES. Will you repeat that?

Senator ALLOTT. Were you an officer of the Illinois Harness Horsemen's Association?

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer might tend to incriminate me.

Senator DOUGLAS. I must direct you to answer that question, Mr. James.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer might tend to incriminate me.

Senator ALLOTT. Isn't it true that you did divert one $2,500 check sent to you by Security Mutual to the Illinois Harness Horsemen's Association so that it entered the funds of that association?

Mr. JAMES. Have you got the check so I could see it?

Senator ALLOTT. Do you have the check available?

Senator DOUGLAS. That will be shown to you later, Mr. James.

Senator ALLOTT. While they are looking for it, I will proceed.

Mr. Chairman, I have a statement to make at this time, because the Chair may feel, and the committee may feel, that I may be going far afield in my questions concerning this man.

However, these questions in view of his continued refusal to answer any such questions even as to what his legal occupation is, I think, are not going too far. If the Chair feels otherwise, I will defer to the decision of the Chair and my colleague, Senator Ives.

Senator DOUGLAS. You may proceed.

Mr. JAMES. Would you repeat that please? I don't quite understand the question.

Senator ALLOTT. Would you read the question back?

(The question was read by the reporter.)

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator IVES. Do you have a heart condition?

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator ALLOTT. Is it not true that a subcommittee of the House of Representatives of the United States tried to question you with respect to that matter, and you pleaded that you had a heart ailment and did not appear?

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator ALLOTT. Do you know that one Holston J. Newbold of the Miami Laundry Workers testified in Miami court that you were one of the persons who furnished money for him to hire boys to throw rocks through laundry truck windows, to bomb laundries and commit other acts of terror in Miami?

Do you know that Newbold testified to that?

Mr. JAMES. Mr. Chairman, may I ask a question of the committee?

Senator DOUGLAS. Yes.

Mr. JAMES. These questions which he is putting to me is something that is way farfetched from this thing. Am I required to go through this and sit here and open up a thing that has got nothing to do with what the committee is investigating?

Senator ALLOTT. Mr. Chairman, I am not even sure who this man is. If I can connect him with these acts——

Mr. JAMES. These questions that the Senator is putting to me are questions that have nothing to do with welfare. They are questions that go back years and years past, and I don't think it is quite proper that they should air this thing out on something that is not relative to what we are here for.

Now, if he requests the answer to the questions, I will have to refuse to answer on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. You see, Mr. James, ordinarily, I think I might agree with you, but you have treated the committee in a very contemptuous fashion, and while we want to be protective of every legitimate right that you have, it is very urgent for us to be held to the strict letter of the law while you take advantage of every legal dodge that is possible.

I am sure the Senator from Colorado will try not to ask questions which are not connected with the investigation here.

Senator ALLOTT. Well, I want to make this statement, Mr. Chairman. These questions under ordinary circumstances might be a little afield, but this person we have here has also been testified to as having been both an officer of the local in Chicago, and an officer of the international union.

Therefore, he should know something about these situations which occurred in these other places, and I have just 1 or 2 other questions, and then I will close this line of questioning.

I want to know——

Mr. JAMES. Just a minute, please. I am not required to answer any question that I feel incriminates me in any shape, manner, or form; is that correct, sir?

Senator DOUGLAS. I think that is true. We hope that you will answer the questions, but you have a constitutional privilege not to do so.

Senator ALLOTT. Now, Mr. James, do you know a Sidney L. Brennan, who is an international vice president of the teamsters union in Minneapolis?

Mr. JAMES. Mr. Chairman, do I have to answer that?

Senator DOUGLAS. Yes; I think you should answer. He happens to be a welfare deputy of the laundry workers, though apparently not a member.

Mr. JAMES. He happens to be under indictment.

Senator ALLOTT. Does he?

Mr. JAMES. Do I have to answer the question, Mr. Chairman?

Senator DOUGLAS. I think you must answer the question.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator ALLOTT. Mr. Reporter, will you read that last question back to me?

(The question was read by the reporter.)

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. You see, these men are under indictment in a somewhat similar case in New York, involving another closely related welfare fund, and therefore, the question is very germane.

I must direct you to answer the question.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator ALLOTT. Do you know Sol Cilento?

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. I must direct you to answer that question.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator ALLOTT. Have you ever paid any money or caused any moneys to be paid to any 1 of these 3 persons?

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. I must direct you to answer that question.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator ALLOTT. Do you know that they are charged with having received $299,000 as a kickback in funds from Louis Saperstein, who testified here this morning?

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. I must direct you to answer the question.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator ALLOTT. Were you in Des Moines, Iowa, approximately a year ago, Mr. James?

Mr. JAMES. I didn't hear that, Senator.

Senator ALLOTT. Were you in Des Moines, Iowa, approximately a year ago?

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. I must direct you to answer that question, Mr. James.

Mr. JAMES. I beg your pardon, sir?

Senator DOUGLAS. I must direct you to answer the question.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator ALLOTT. Have you ever been a member of the Teamsters Union?

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. I must direct you to answer the question.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator ALLOTT. Isn't it true, Mr. James, that in 1946 the grand jury investigated you in activities in the Teamsters Union in Detroit?

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. The Chair will rule that since the answer to this question might incriminate Mr. James that he will not direct him to answer the question.

Senator ALLOTT. I might point out to the chairman in this technical matter that an investigation by a grand jury does not constitute a conviction, so the fact that he was investigated, it seems to me, doesn't mean that he was guilty of what he was being investigated for, but it is perfectly all right.

Did you ever draw any money from the unions in Detroit which had charge of the jukebox racket there?

Mr. JAMES. What kind of business?

Senator ALLOTT. The jukeboxes. Do you know what a jukebox is?

Mr. JAMES. Will you repeat the question, please?

Senator ALLOTT. Did you ever draw any money from those unions in Detroit which had charge of the jukebox racket in Detroit?

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. I would direct you to answer that question.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator ALLOTT. I will ask you if, in 1951, you were associated with a man by the name of Gerard P. Connelly, now a teamster official in Minneapolis in laundry workers organization in Miami?

Senator ALLOTT. I must direct you to answer that question.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator ALLOTT. And who also has been identified as a welfare deputy of the social security department of the Laundry Workers International Union? Does that identify him further for you?

Mr. JAMES. I didn't get the question, sir.

Senator ALLOTT. I am identifying him further for you.

Mr. JAMES. The first part of the question I didn't understand.

Senator ALLOTT. He was also a welfare deputy of the Laundry Workers International Union. Does that identify him sufficiently for you to say whether you know him?

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator ALLOTT. Did you pay any money to Brennan by check or cash in 1953, 1954, or 1955?

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. I must direct you to answer that question.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator ALLOTT. From what funds did you make these payments?

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator ALLOTT. Were any of these moneys which you paid to Brennan a loan?

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. I must direct you to answer the question, because, you see, the Senator from Colorado is referring to moneys paid to Mr. Brennan as an agent of the welfare fund.

Senator ALLOTT. That is right.

Mr. JAMES. And the question, if I understood it right, said personal money; is that correct?

Senator ALLOTT. I said nothing about personal money.

Mr. JAMES. You said personal loans; didn't you, sir?

Senator ALLOTT. Or a loan; yes.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. I must direct you to answer the question.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator ALLOTT. Now, in case you misunderstood me, Mr. James, I will ask you if you paid Mr. Brennan any money from any funds upon which you could write a check, whether it was personal or not?

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. I must direct you to answer the question.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator ALLOTT. What services did Mr. Brennan render to you or for you?

Mr. JAMES. I don't understand that question.

Senator ALLOTT. What services did Mr. Brennan render to you or for you for which you paid him these sums?

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator DOUGLAS. I must direct you to answer that question.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator ALLOTT. Is it not true, Mr. James, that last year—in fact, a year ago—the Bender subcommittee of the United States House of Representatives attempted to subpena you in connection with the Minneapolis labor racket hearings and were never able to locate you; that you hid out?

Mr. JAMES. Is that question to be answered, Mr. Chairman? Is that relative to what we are here for?

It doesn't look to me like the Senator is asking questions directly concerned with welfare, and he is trying to blacken me up as much as possible by his questions that I don't think are relative to this thing.

Senator DOUGLAS. Well, the Chair has some uncertainty. I will consult with my colleagues.

The Chair will advise you that you should answer the question.

Mr. JAMES. Repeat the question.

Senator ALLOTT. Read it.

(The question was read by the reporter.)

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator ALLOTT. Do you have any questions, Mr. James, that you would like to have me propound to any other witnesses?

Mr. JAMES. Is that in the form of a question?

Senator ALLOTT. Yes, sir.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me.

Senator ALLOTT. That is all.

Senator DOUGLAS. Mr. Leece?

Mr. LEECE. I have no questions.

Senator DOUGLAS. Senator Ives?

Senator IVES. No questions.

Senator DOUGLAS. Mr. James, I think you made a very great mistake.

Mr. JAMES. Mr. Chairman, I am not a lawyer, and I am not a highly educated man, but I don't think that the Senate of the United States wants a man to answer questions that directly or indirectly might incriminate him, if I understand it right, and that is the ground on which I answered my questions.

Senator DOUGLAS. Well, you should have cooperated with the committee.

Senator ALLOTT. Mr. James, is telling your age a ground of incrimination? Would that tend to incriminate you?

Mr. JAMES. Is this in the form of a question?

Senator ALLOTT. This is a question.

Mr. JAMES. I respectfully refuse to answer the question on the ground that the answer may tend to incriminate me, but if you phrase it in a different way, without being a question, then I will talk about my age.

Senator ALLOTT. You are not going to frame my questions for me.

Mr. JAMES. You are not going to tell me how to answer them, either.

Senator DOUGLAS. You are excused, Mr. James.

Mr. JAMES. Thank you, sir.

Senator IVES. Mr. Chairman, I move in the light of this contemptuous conduct of this witness and his presentation here this afternoon, that he be held in contempt of the Senate.

Senator DOUGLAS. Now, that will require recommendation from us to the full committee, and then recommendation of the full committee to the Senate.

I take it that what you are proposing is that we recommend to the full committee that it recommend to the Senate that Mr. James be held in contempt?

Senator IVES. That is my position.

Senator ALLOTT. And I second it.

Senator DOUGLAS. Those in favor signify by saying "aye"; opposed, "no."

It is a unanimous vote, and we will report this to the full committee.

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